

United States  
Circuit Court of Appeals  
For the Ninth Circuit.

Apostles.

The British Ship "CELTIC CHIEF," Her Tackle, etc., and  
JOHN HENRY, Master and Claimant Thereof,  
Appellants,

vs.

INTER-ISLAND STEAM NAVIGATION COMPANY, LIM-  
ITED, an Hawaiian Corporation, Owner of the Steamers  
"HELENE," "MIKAHALA," "LIKELIKE," and  
"MAUNA KEA," for Itself, the Officers and Crews of  
Said Steamers and Other Servants of Said Owners,  
Appellee.

The British Ship "CELTIC CHIEF," Her Tackle, etc., and  
JOHN HENRY, Master and Claimant, Thereof,  
Appellants,

vs.

MILLER SALVAGE COMPANY, LIMITED, a Corporation,  
Appellee,  
and

The British Ship "CELTIC CHIEF," Her Tackle, etc., and  
JOHN HENRY, Master and Claimant Thereof,  
Appellants,

vs.

MATSON NAVIGATION COMPANY, a California Corpora-  
tion, Owner of the Tug "INTREPID," for Itself and the  
Officers and Crew of Said Tug,  
Appellee.

VOLUME VIII.

(Pages 2945 to 3419, Inclusive.)

Upon Appeals from the United States District Court  
for the Territory of Hawaii.



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(Testimony of J. F. Haglund.)

Q. In practical seamanship can you tell whether or not a given rope or hawser is any longer fit for any given purpose? A. I can.

Q. How do you tell that?

A. By examining the rope.

Q. And what is there about a rope to indicate to you whether it is fit or unfit?

A. By looking at it and examining it not only on the outside but you have to open it and look on the inside. You can't always tell by the outside of the rope whether it is perfectly sound or strained, but by opening it you can judge whether they have been any excessive strain put on it or what strain you can put with safety.

Q. As a practical matter, is it possible to judge whether or not a line which has been used for towing could again be used under similar conditions?  
[3027—2196]

Mr. OLSON.—I object to the question on the ground it is leading; also it's calling for a conclusion of the witness and the witness is not qualified to answer.

The COURT.—Repeat the question.

(Question read.)

Mr. OLSON.—Also on the ground it is immaterial.

The COURT.—I allow the question.

A. Yes, you can judge by examining it. If the rope may be used again under similar circumstances.

Q. You can tell?

A. You can tell by examining it.

Q. Do you know what kind of a line was used by the "Mikahala" beginning with Monday?

(Testimony of J. F. Haglund.)

A. It was an eight-inch manilla hawser.

Q. New or old?      A. New.

Q. Did you see that same hawser after the operations at the "Celtic Chief"?      A. I did.

Q. Do you examine it?      A. I did.

Q. Could you tell by that examination whether or not that line was fit for towing purposes thereafter?

A. I could and I did.

Q. Was or was not that line fit for towing purposes?

Mr. OLSON.—Object to the question on the ground that the witness does not appear to be qualified to answer; furthermore, on the ground that no foundation has been laid.

The COURT.—Objection overruled.

Mr. OLSON.—I then ask privilege to ask the witness questions as to his qualifications.

Mr. WARREN.—I withdraw my objection as to cross-examination [3028—2197] as to qualifying questions.

The COURT.—I allow the questions.

Mr. OLSON.—Q. Captain Haglund, did you say that you examined the "Mikahala" rope after the operations?

A. I did.

Q. How long after the operations was it before you made that examination?      A. On Thursday.

Q. That was the day after?      A. The day after.

Q. Now, what line was it that you examined of the "Mikahala's"?

A. That is the line that went on on Monday morning.

(Testimony of J. F. Haglund.)

Q. Did you examine the other one? A. I did.

Q. How do you know which one it was that went out on Monday morning? A. It was cut.

Q. When was it cut? A. On Wednesday.

Q. Where? A. Aboard the "Mikahala."

Q. How do you know that that was the one that went out on Monday morning?

A. Because I was there and saw it.

Q. How do you know, merely from the fact it was cut that that was the one that went out on Monday morning? What time was that cut. Withdraw that question. A. Wednesday night.

Q. When was the second line put on?

A. Tuesday night.

Q. How can you tell from the fact it was cut on Wednesday [3029—2198] night that that was the line that was cut?

A. Because there was much more strain, there was more wear on that line than there was on the last one.

Q. That's the only reason you have for thinking it was the line that went out on Monday morning?

A. And I saw, know it was cut.

Q. That was cut on Wednesday night?

A. Wednesday night.

Q. And you saw it cut?

A. No, I didn't see it cut.

Mr. OLSON.—I move that this go out on the ground that it's perfectly evident that it is hearsay.

The COURT.—Objection is overruled at this time.

Q. Now, then, how were you able to determine that the line that was cut was the line that was brought out on Monday, merely from the fact that it was cut?

(Testimony of J. F. Haglund.)

A. When the line was brought out on Monday—

Q. Answer my question.

Mr. WARREN.—I submit, your Honor, that it is not proper for counsel to interrupt the witness.

A. The line that was put out on Monday was used on the starboard side that she was towing on all the time until Wednesday night, then they swung it over to port. I could see that that line was cut but the other one wasn't because she was still towing on that port line.

Q. Weren't both of the "Mikahala's" lines brought through the same chock of the "Celtic Chief"?

A. "Celtic Chief," yes, but not on board the "Mikahala."

Q. Now, do you know whether or not the line that was put on originally on Monday on the "Mikahala" was retained on the same side throughout the whole operations? [3030—2199]

A. I do.

Q. How do you know that?

A. She didn't have another one on board.

Q. You were out there at all times after the second one was put on board?

A. I was.

Q. When you examined the "Mikahala's" lines on Thursday, where were those lines? Where were they?

A. The line was aboard the "Mikahala."

Q. They were aboard the "Mikahala"?

A. Aboard the "Mikahala."

Q. And where was the "Mikahala" when you made that examination?

A. Lying at the "Mauna Kea" wharf.

Q. And you went aboard the "Mikahala" and

(Testimony of J. F. Haglund.)

there examined those lines? A. I did.

Q. Take the line that was put out first by the "Mikahala"; how did you examine that line?

A. The same as I would examine any other rope.

Q. State how you examined it.

A. By looking at it and opening the lace and saw how it was worn inside.

Q. Now, had that line been broken in the course of the "Mikahala" operation?

A. It had not been broken.

Q. It had been cut? A. Cut.

Q. And where was it cut?

A. On board the "Mikahala."

Q. How near the end of the line?

A. Five or six hundred feet from the "Celtic Chief."

Q. Five or six hundred feet. How near the "Mikahala" end? [3031—2200]

A. Right on board the "Mikahala."

Q. I'm asking you how far from the end of the line was it cut?

A. In the neighborhood of twenty fathoms.

Q. Twenty fathoms? A. Approximately.

Q. Inside or outside of the bulwarks of the "Mikahala"? A. Inside.

Q. How near to the mast on which it was fastened? A. It wasn't fastened to the mast.

Q. What wasn't it fastened to?

A. To the port bitts.

Q. How near those bitts?

A. Between the chock and those bitts.

Q. Where was it that you opened or unraveled the



(Testimony of J. F. Haglund.)

strands of the rope to make the examination that you said?

A. That I can't say. About the middle of the line, I should judge.

Q. How did you open up, did you cut it?

A. No.

Q. How were you able to unravel it?

A. Open the lace.

Q. And what did you find in there?

A. I found the yard all strained and you can pull them.

Q. Can you bring in a section of that rope that is a fair average piece of that line, now?

A. Not of the "Mikahala," I can of the "Mauna Kea."

Q. What has become of that line?      A. Cut up.

Q. Cut up?      A. Sold.

Q. Did you see it cut up? [3032—2201]

A. After a rope is used up then I sell it.

Q. Did you see it cut up?

A. I have seen it cut up.

Q. Did you see the "Mikahala's" line cut up?

A. Yes.

Q. Where was it?      A. Up in my warehouse.

Q. And you actually observed the cutting up of the "Mikahala's" line?      A. Yes.

Q. What was done with it?

A. Used for mooring lines.

Q. Now, do you know what the tensile strength of that line was after the "Celtic Chief" came off the reef?

Mr. WARREN.—Object to the question as imma-

(Testimony of J. F. Haglund.)

terial, improper, incompetent and immaterial, surely irrelevant.

Mr. WARREN.—I'll save time by withdrawing the objection.

Mr. OLSON.—Answer the question.

(Question read.)

A. Well, I know it wasn't half as much tensile in it as it was before it went out there.

Q. What was its tensile strength before it went there? A. Twenty-five tons.

Q. You are sure of that? A. Yes.

Q. How do you know that?

A. According to the table.

Q. What was the tensile strength afterwards?

A. I wouldn't risk more than five tons.

Q. I'm not asking you what you are going to risk. I'm asking you how do you now or whether or not you know what its tensile strength was.

A. I've got no machine to test it by. [3033—2202]

Q. Have you ever tested a line of that kind?

A. I have seen it tested.

Q. Where have you seen it tested?

A. Well, not in Honolulu.

Q. Tell us where it was? A. In Sweden.

Q. Did they have a testing machine?

A. It was some kind of a machine, I don't know what you call it.

Q. You don't know whether or not it was a testing machine? A. They used it in a rope works.

Q. How old were you at that time?

A. Between twenty and twenty-one, I think.

(Testimony of J. F. Haglund.)

Q. And you saw them testing rope there, did you?

A. I did.

Q. What kind of ropes did you see them test?

A. Hemp rope.

Q. Had you examined prior to that time to see whether it was in the same conditon as this rope of the "Mikahala"? A. I did not.

Q. So you don't know whether they ever tested a rope of this kind in this condition? A. No.

Q. Did you ever see a rope in the condition of the "Mikahala's" line tested? A. I seen it broken.

Q. Ever seen it tested? A. Yes.

Q. How? A. In purchase tackles.

Q. Where? [3034—2203] A. In Honolulu.

Q. How many times have you seen a rope, an eight-inch manilla hawser in the condition of the "Mikahala" rope after it came off. How many pounds did it require? A. Well, less than six ton.

Q. How did you know that?

A. Because I seen it broken.

Q. How do you know it was less than six tons?

A. By seeing it broken.

Q. How do you know?

A. I know a steamer like the "Mikahala" can't pull a six ton object off with her propeller, I seen it tested.

Q. You said they tested by purchase tackle?

A. Not so big as an eight-inch rope.

Q. Where have you seen an eight-inch rope tested?

A. I just said.

Q. Where? A. Spring line, alongside a wharf.



(Testimony of J. F. Haglund.)

Q. How was it broken?

A. Broken by turning over her propeller.

Q. And pulling on an object ashore?

A. Pulling on a stanchion.

Q. How do you know that it took only six tons to break the rope?     A. Took less than that.

Q. How do you know?

A. Because I know she can't pull that much at all.

Mr. WARREN.—Now, I'm going to object to the manner of counsel in interrogating this witness.

Mr. OLSON.—In reply to the objection, I wish to state that I submit that I not only am fairly within the rules [3035—2204] of cross-examination and further that I have not in any way violated any of the rules as to the manner of my cross-examination.

The COURT.—I haven't noticed anything on Mr. Olson's part, except an insistence, and energy which I don't think is improper, and I don't think the witness is intimidated or anything of the kind.

Mr. OLSON.—Now, answer the question. Now, she was pulling by means of her propeller, was she, with a line fastened to shore?

A. To the wharf.

Q. How did she happen to be pulling on a line of that sort with a line fastened to a wharf?

A. Doing that every day before sailing.

Q. For what purpose?

A. Turning the engines over before leaving the wharf. It's done every day by every steamer before they leave the wharf.

Q. What is the purpose of that?

(Testimony of J. F. Haglund.)

A. To warm up her engines and see that everything is in good working order.

Q. How many times have you seen lines in the condition that the "Mikahala's" were broken in that way?     A. Many times.

Q. Have you always examined those ropes to see that they were in the same condition as the "Mikahala's"?

A. I don't say that I examined every one of them. I examined several of them, may be dozens of them.

Q. And do you know they were broken on account of the general condition of the line or isn't it possible it was due to defects in the line, special defects?

A. No other defects, other than wear and tear.

Q. Might have been special weaknesses? [3036—2205]     A. No.

Q. Had you examined those lines so carefully that you were able to say it wasn't due to some special defect?     A. You generally find that out.

Q. Did you do that?     A. I have in many a case.

Mr. WARREN.—I object to counsel putting questions before the witness has answered.

Q. Now, is that by straight pull that those ropes were broken?     A. That was by steady pull.

Q. And you're prepared to swear that the "Mikahala's" line would have broken under a strain of that kind?     A. I didn't try that particular line.

Q. Now, do you mean to say that the "Mikahala's" line would not stand a strain of more than six tons?

A. Less than six tons, I wouldn't risk six tons.

Q. So at the time the "Celtic Chief" was going off that line was only able to stand a strain of six tons?

(Testimony of J. F. Haglund.)

A. She had a better line on the port side.

Q. That line was in a much better condition?

A. That hadn't been towed on so long, that is why practically that we put one more on board of her.

Q. Now, how many tons would that stand?

A. Maybe that would stand half.

Q. What was the tensile strength of that line?

A. Same thing, twenty-five tons.

Q. And you think that would stand twelve and a half tons? A. I think so.

Q. An eighteen and a half tons was all that the "Mikahala" could exert upon those lines when the "Celtic Chief" [3037—2206] was coming off?

A. That's pretty good.

Q. Is that all?

A. Apparently, that would be all.

Q. Did you examine that boat in more than one place? A. Yes.

Q. How many places? A. I couldn't tell you.

Q. How many places did you unravel it?

A. I didn't unravel it any where, I just opened the lace.

Q. How many places did you open that up in that way?

A. Maybe I did in half a dozen places more or less, may be more.

Q. Now, take the first line, what is your best recollection? A. I couldn't tell.

Q. Did you examine it near the ends?

A. I didn't look at any particular part.

Q. Did you look at the middle of it?

(Testimony of J. F. Haglund.)

A. I may have looked exactly in the middle.

Q. And you don't know whether you examined it in that way once or six times?

A. Not the number of times.

Q. Did you examine it in more than one place?

A. I did more than twice, more than three times.

Q. More than four times?      A. Yes.

Q. More than five times?

A. That I don't know.

Q. And you don't know in what part of the line it was that you made this examination?

A. Not particular part.

Q. Why did you say it was in the middle?      [3038—2207]

A. It may have been in the middle.

Q. Why did you say, not a moment ago but some few minutes ago, that it was in the middle of the line?

A. The line was laid down on the after deck and it may have been in the middle.

Q. Did you find it in practically the same condition in all the places you opened up?

A. Practically in the same condition. I didn't examine it close to the ends.

Q. Can you produce a sample of the second line of the "Mikahala"?      A. I could not.

Q. What's become of it?      A. Used up.

Q. For what purpose?

A. I couldn't say; may have been sold to the junkman some of it.

Q. And it might have been used for mooring lines?

A. Yes, first, and then we sold it for junk at sixty cents hundred.

(Testimony of J. F. Haglund.)

Q. You don't know what's become of it?

A. Not now.

Q. You didn't then?

A. Not after it come to the warehouse, for mooring lines.

Q. And that is all you know about it?

A. And finally sold for junk.

Q. Did you see it sold for junk?      A. I have.

Q. This one, "Mikahala" rope?

A. Not that particular line but I've sold it after it is useless and we got too much for fenders.

Mr. OLSON.—That's all.

Mr. WARREN.—I submit the witness is qualified to answer that objection.

Mr. OLSON.—I renew my objection as to his qualifications.

(Question read.) [3039—2208]

The COURT.—Objection is overruled.

A. Not the first one, wasn't fit for towing; the second one was.

Q. The second was?

A. The second was; that was, to tow a ship in and out a harbor, not for a wrecking purpose it wouldn't be of any use.

Q. Now, the "Likelike's" line, Captain, did you see that before the operations?      A. I did not.

Q. Did you examine it?

A. I saw it out there before she commenced pulling on it.

Q. Do you know what kind of a line it was?

A. It was an eight-inch line?

(Testimony of J. F. Haglund.)

Q. New or old?      A. New.

Q. Did you examine it after the operations?

A. Yes.

Q. Could you tell by that examination whether or not that line was fit or unfit for towing purposes thereafter? Good for similar towing purposes. Answer that question yes or no. Could you determine?      A. Yes, I could.

Q. Was it or was it not fit for towing purposes thereafter?      A. It was fit.

Mr. OLSON.—Just a second. Don't answer it so quickly. I object to the question on the ground the witness is not qualified to answer.

The COURT.—Objection overruled.

A. Yes, it was fit to tow with, that is, tow vessels in and out of harbor it would be all right.

Q. Where did the steamers "Helene" and "Like-like" go? What did they do after the "Celtic Chief" had been brought back to anchorage off the harbor?

A. They anchored out by the "Celtic Chief" over night, outside the harbor. [3040—2209]

Q. For what purpose?

A. Well, stay by her because that evening looked very threatening from the southward, cloudy and light southerly wind, and little rain, and we didn't know, might spring out strong wind and we thought it would be safer to keep the two vessels up there.

Q. What was the regular run of the "Mikahala" in December, 1909?

A. She was on the Molokai-Maui run, schedule to leave Honolulu on Tuesday evening, five o'clock and



(Testimony of J. F. Haglund.)

get in Sunday mornings.

Q. What, if anything, was done regarding her run?

A. Her run was substituted by another boat called the "Ke Au Hou" for that week.

Q. How does the "Ke Au Hou" compare in size with the "Mikahala," generally speaking?

A. Well, a much smaller boat.

Q. Was there any motion of any kind of the "Celtic Chief" on say, Tuesday and Wednesday when you were out there?      A. Yes.

Q. What kind?

A. There was a little rolling motion as well as an up and down motion, grinding on the bottom, thumping; once in a while a swell, as the big swells come in and lifted her.

Q. Describe the up and down motion. How much was there?

A. Oh, the motion wasn't up and down motion couldn't have been probably more more than few inches. Of course, that's impossible to determine exactly. It was heavy enough at all times for us to notice at the boat; enough to shake her yards and masts and sometimes very severely too.

Q. Why?

A. The way it was coming down on the bottom after a big sea left her.

Q. How big *were* the sea?

A. The biggest swells, I should judge, about fourteen or fifteen feet. [3041—2210]

Q. Did you see any of that size yourself?

A. I did.

(Testimony of J. F. Haglund.)

Q. I show you Libellant's Exhibit "K" and ask if you, looking at this photograph, can tell us approximately the height of the swell there shown? (Handing witness photograph.)

A. I should judge that swell to be about ten feet; maybe little more, that particular one here.

Q. What is there, if anything, about that picture, indicating size to you?

A. I don't understand what you—

Mr. WARREN.—Read the question.

(Question read.)

A. Them plates, they are about four feet in depth; the ship's plates on the side.

Q. What plates?

A. Probably the whole plate you see, about four feet wide.

Q. With white paint?

A. With white paint. Not quite, as far as I remember, the full plate wasn't painted white. The plate is generally four feet on a ship of that size.

Q. And how much was painted?

A. Probably three feet of it; three feet and a half, maybe. And that bulwark there, the black streak above, you see, is approximately five feet high.

Q. Anything else?

A. No, I don't know anything else.

Q. Now, how frequently would these seas come?

A. The large ones?

Q. The large ones?

A. I don't know as I timed them, but probably come in three, four, or five minutes; something like that, I



(Testimony of J. F. Haglund.)

should judge, with smaller swells between them, of course. [3042—2211]

Q. Did you personally observe all of the operations of the “Arcona” at the “Celtic Chief”?

A. I did.

Q. Basing your answer upon your own experience in seamanship and matters of navigation, what can you say as to the seamanship of the manoeuvres and operations of the “Arcona” in connection with the “Celtic Chief”?

Mr. OLSON.—Object to the question on the ground it is calling for the opinion of the witness and there is no foundation laid.

Mr. WARREN.—I’ll put another, preliminary question or two. Were there any operations on the part of the “Celtic Chief,” I mean on the part of the “Arcona,” or manoeuvres by that vessel and its officers, concerning which you have not yet testified, as far as you know?

A. Oh, there may have been others, may have been, yes.

Q. Movements of the vessel? A. Yes.

Q. Were there any movements of the vessel that you didn’t observe?

Mr. OLSON.—He’s already answered the question. I submit it has already been asked and answered.

The COURT.—I think it has been already answered.

Q. What movements of the “Arcona” were there that you did not observe?

Mr. OLSON.—Object to the question on the ground

(Testimony of J. F. Haglund.)

it is incompetent, irrelevant, and immaterial and calling for an impossible answer.

A. I misunderstood that question.

The COURT.—Captain Haglund, if you will please state just what you wish to correct.

A. I misunderstood that question which I had already stated that there was no manoeuvres whatever that I didn't observe during the time the "Arcona" was out by the "Celtic Chief," and the last question I misunderstood. [3043—2212]

Q. Now, aside from actual manoeuvres of the "Arcona" itself, do you know whether or not there were any manoeuvres with lines or boats between the "Arcona" and the "Celtic Chief" of which you did not know?

A. No, not any that I don't know about.

Q. Are there, then, any manoeuvres or operations, either of the vessel or its lines or between the "Arcona" and the "Celtic Chief," of which you have not yet testified? I'm speaking now of actual manoeuvres and operations.

A. Not that I can remember.

Q. Now, I'll ask you, basing your answer upon your experience in seamanship and navigation and the handling of vessels and salvage of them, what can you say as to the seamanship of the manoeuvres and operations on the part of the "Arcona" and its officers?

Mr. OLSON.—Object to the question on the ground it is calling for a conclusion of the witness, no proper foundation has been laid, and incompetent, irrelevant, and immaterial.

(Testimony of J. F. Haglund.)

Mr. WARREN.—I will direct it to specific instances. You've testified, Captain, that the "Arcona," on coming out, first dropped her anchor at a point about directly astern or in line with the stern of the "Celtic Chief," and about midway between the "Helene" and the "Mikahala"? Now, basing your answer upon your experience in navigation, seamanship, and salvage and such manoeuver, what can you say as to the seamanship of that manoeuver in so placing that anchor?

Mr. OLSON.—I object to the question on the ground it is calling for the opinion of the witness, incompetent, irrelevant, and immaterial, and no proper foundation been laid.

The COURT.—Objection overruled.

A. In my opinion, there was very poor judgment shown for the commander of the "Arcona" to direct his anchor so [3044—2213] far to leeward.

Q. Why?

A. Because he couldn't get into position that he desired, and had already spoken for.

Q. If the "Arcona" had desired and intended to so place its anchors and place itself in a position opposite the stern of the "Celtic Chief" and approximately midway between the "Helene" and the "Mikahala," where should she have dropped her anchor?

Mr. OLSON.—I make the same objection.

The COURT.—Same ruling.

A. About the place that it dropped it the second time.

Q. Why?

(Testimony of J. F. Haglund.)

A. Because then she had no trouble in getting herself in position after the ship was anchored.

Q. What conditions were there upon which you have based your answers?

A. Well, the conditions were such out there, that the wind was blowing from the eastward and the current was setting, coming from the eastward, setting to the westward, and both had a tendency to lead the "Arcona" down towards the "Helene" unless he lifted up his anchor to windward of the place that he want to take for the ship, position of the ship.

Q. Where was the captain of the "Arcona" at the time the white lights were sent up from the stern of the "Celtic Chief" as she was coming off?

A. I don't know where he was then.

Q. When had you last seen him prior to that instant?

A. A few minutes previous to that I saw him aboard of the "Celtic Chief," on the quarter deck.

Q. Where was the "Celtic Chief" at that time when you last saw the captain aboard?

A. She just commenced moving off the reef.

Q. How far had the vessel moved, approximately?  
[3045—2214] A. How far, I can't state.

Q. Well, was she on or off the reef?

A. Part of it was still on the reef.

Q. And where was the executive officer at that time?

A. He was on board the "Celtic Chief."

Q. Do you know the size of the "Helene's" anchors.

A. Yes, sir.

Q. Well, will you state them?

(Testimony of J. F. Haglund.)

A. Two thousand pounds, approximately.

Q. That is the two together? A. No, each.

Q. Now, assuming the anchor of the Miller Salvage Company to be from five to seven tons, we'll say seven tons, and assuming also that the two anchors of the "Helene" and the anchor of the Miller Salvage Company were both fast, what, in your judgment, would be the value of the Miller anchor over the two anchors of the "Helene," or *vice versa*, if subjected to an equal strain?

Mr. OLSON.—Object to the question on the ground that it improperly assumes facts not in evidence; then, as a hypothetical question it does not properly state the evidence in the case, and furthermore, on the ground that it does not appear that this witness is qualified or competent to testify as to what strain was exerted.

Mr. WEAVER.—The words have been taken out of my mouth. I make the same objection.

Mr. WARREN.—I'll lay a little more foundation, your Honor.

Mr. OLSON.—Is the question withdrawn?

Mr. WARREN.—For the present. Have you ever seen an anchor, Captain? A. Yes, I've seen them.

Q. Do you know what they are used for?

A. Yes. [3046—2215]

Q. Have you ever had any opportunity to judge of the holding power of an anchor? A. I have.

Q. Either for holding the vessel anchored, the vessel itself or to use it as a grip on the bottom to heave on? A. I have.

Q. More than once? A. Many times.



(Testimony of J. F. Haglund.)

Q. Twice?      A. Many times.

Q. As a practical matter, have you had occasion in your experience to judge of the comparative holding power of one anchor as against another, conditions on the bottom being equal?      A. Yes.

Q. So that you could, in a given case, judge whether or not a particular anchor would be large enough or two small anchors for a given purpose.

Mr. OLSON.—I submit any question that counsel has asked, is a clear breach of the rule of leading questions.

The COURT.—Of course, those questions are leading. I take them as preliminary.

Mr. OLSON.—I take it then, the objection is sustained?

The COURT.—The objection is sustained, yes.

Q. What experience have you had, Captain, in comparing the relative value and power of one anchor over another?

A. Some anchors, some sea anchors.

Q. Different anchors, take the different anchors.

A. The bigger the anchor and the farther away from the object your anchor, the better hold it is.

Q. Can you answer more fully, Captain?

A. The farther the anchor is away, the smaller the anchor will be to the object and will have a better hold. An anchor dropped up and down from the ship, even if it was ten tons, would not have the same effect of an anchor a hundred fathom away weighing one ton; that would hold [3047—2216] this ship better than an anchor lying that way, weighing twenty tons.

Q. Referring to the anchor of the Miller Salvage

(Testimony of J. F. Haglund.)

Company and the two anchors of the "Helene," all of which were placed as you have already testified, and considering only their weight and the respective distances from the "Celtic Chief," what, in your judgment, was the comparative holding power of the Miller anchor as compared with the two anchors of the "Helene"?

Mr. OLSON.—I make the same objection again, if the Court please.

Mr. WEAVER.—He is not stating any experience other than your Honor would have on the same subject.

I want the record to show that I enter the same objection.

I have no objection as to qualifications, your Honor.

Mr. OLSON.—Q. Captain Haglund, what is the largest ship that you ever sailed on, ship or steamer, as a seaman, master, officer, or seaman?

A. A seaman, I've been on all kind of ship, all sizes, except the Atlantic liners.

Q. What is the largest anchor that you have seen actually in use, yourself you observing the operations? A. Belong to a ship?

Q. Yes, on which you were employed and used in connection with it? A. For the ship line?

Q. What? A. For the ship?

Q. For any purpose?

A. Well, I've seen this Miller anchor.

Q. Well, have you seen any other, as large as that, in use? A. I don't know as I have.

Q. About what would be the largest anchor that

(Testimony of J. F. Haglund.)

you've [3048—2217] seen in use and observed in use aside from this Miller anchor?

A. I have seen over five ton. We've got anchors, our own, down the Inter-Island there, weight about ten thousand pounds.

Q. Ten thousand pounds?

A. About that, approximately.

Q. You have them in store now?

A. Two of them I have.

Q. What are they used for?

A. They are used for any purpose that we may need them for, not for the steamers.

Q. Will you state the last time that they were actually used? A. They've never been in use yet.

Q. What other anchors?

A. I've seen anchors as big as them used up in Hamakua; probably some of them as big and heavier than Miller's.

Q. For what purpose? A. For wires.

Q. You mean the wire loading apparatus?

A. Yes, sir.

Q. Now, have you ever observed them in comparison with other anchors, as to holding power? Made any observations as to comparative holding power between those anchors on the Hamakua coast and others.

A. I don't really understand your question, Mr. Olson.

Q. Have you ever observed these large anchors on the Hamakua coast for the purpose of making a comparison with the other anchors for holding quality?

A. I have.



(Testimony of J. F. Haglund.)

Q. Now, how? In what respect?

A. I know them anchors laid on the Hamakua coast, were to hold the wires.

Q. Have you ever seen any smaller ones used for that purpose?

A. Generally a big one [3049—2218] and a small one attached to it.

Q. Have you ever seen any small ones used along the Hamakua coast?

A. Yes, all them wires haven't got the same anchors out. It depends on the strain supposed to be on, put on that wire.

Q. Are they laid constantly? A. Occasionally.

Q. Have you observed that some of those anchors weren't able to do the work that they were supposed to do? A. I have.

Q. And have you made observations in that way?

A. I have.

Q. How large are those anchors?

A. An anchor may drag and you have to haul it up and get it farther out.

Q. Isn't that dependent upon the holding quality of the bottom? A. It does in some cases.

Q. Have you ever observed any anchor used in those operations as small as a two-ton anchor?

A. Not for the sea.

Q. So you don't know?

A. For the boat there is anchors approximately two-ton.

Q. Have you ever observed whether a two-ton anchor would do the work that these anchors did?

A. They would not.

(Testimony of J. F. Haglund.)

Q. Have you ever observed whether or not a two-ton anchor would hold?

A. How could I test it if it is never done? It has never been used because we know better than to do it.

Mr. OLSON.—Move to strike the last part as not responsive.

The COURT.—I will grant the motion.

Q. Now then, Captain Haglund, will you state any other [3050—2219] case where you have observed the comparative use of an anchor as small as a two-ton anchor with an anchor as large as five tons or over, the comparative use in either case.

A. Will you repeat that question again, Mr. Olson, please?

Q. Will you state any other case in which you have made any other observation as to the comparative holding power of an anchor as large as a two-ton anchor or two anchors of two thousand pounds each, with an anchor as large as five tons or over.

A. Well, there was a comparison out at the "Celtic Chief."

Q. Aside from the "Celtic Chief."

A. Yes, I'm speaking of them wires.

Q. Where? A. About them landing wires.

Q. You said that they didn't lay two-ton anchors.

A. Not on Hamakua.

Q. Isn't that what you said?

A. Not Hamakua. There is one at Hanuipo used for the same purpose.

Q. Did they ever use a bigger anchor there?

A. Not necessary.

Q. I'm asking if they ever used a bigger anchor there? A. No.

(Testimony of J. F. Haglund.)

Q. So you don't know what would be the comparative holding powers from actual observation?

A. From actual observation?

Q. You don't know, do you?      A. No, but—

Q. That's all that I want.

Mr. WARREN.—The witness hasn't finished his answer.

Mr. OLSON.—Go on and state what the rest of that answer was going to be.

A. An anchor may be only two tons, if you say—

Mr. OLSON.—Now, I submit, if the Court please, he is [3051—2220] not stating anything about observation.

The WITNESS.—I go out on one of the Inter-Island steamers, I drop an anchor that would weigh a thousand pounds—

Mr. OLSON.—Now, I appeal to the Court. Am I obliged to get the whole of a witness' answer that has absolutely nothing to do with his observation at Honuipo?

Q. Did that have anything to do with Honuipo?

A. No.

Q. Now then, any other case that you've had any chance to observe between an anchor as large as five tons or more or one anchor of two tons or two anchors of one ton each?

A. I certainly have, in many cases.

Q. Anchors as large as five tons?

A. You said one anchor of two tons and two anchors of one ton.

Q. That isn't what I said at all. I asked you if there was any other case where you had had an opportunity of observing and that you were able to

(Testimony of J. F. Haglund.)

make a comparison between the holding power of an anchor of five tons and more and an anchor of two tons or two anchors of one ton each?

A. I can't understand the question.

Q. What? A. I don't understand the question.

Q. Have you ever observed any case, other than you have already testified to, where you were able to observe, by the actual use, the comparative holding power of an anchor as large as five tons or more with one of two tons?

A. The holding power don't lie with the weight of the anchor.

Q. That's not what I'm asking you. [3052—2221]

A. I can't understand your question.

Q. Have you ever observed the use of a five-ton anchor or more with an anchor of two tons?

A. Yes, I have.

Q. Where? A. At the "Manchuria."

Q. Did you have any observation?

A. I tested pretty well.

Q. Where?

A. On the "Sheridan." I was aboard of her three weeks and laid every kind of anchor. We took the ship off the reef.

Q. Did you have an opportunity on either the "Sheridan" or "Manchuria" of observing how much more powerful an anchor of five tons is?

A. It don't lie with the weight, it lies with how the anchor is placed.

Q. I'm asking you to confine yourself to my question as to what you have observed. Now, then, answer the question.

(Testimony of J. F. Haglund.)

A. I don't understand the question.

Q. You have then never seen—

Mr. WARREN.—I object to that, your Honor. That is not fair.

Q. Now, Captain Haglund, do you mean to say then that you have never, on any occasion than you have testified to, had any opportunity of observing the comparative holding powers of an anchor as large as five tons with that of one as small as two tons?

Mr. WARREN.—I object to the question as not fair and improper in view of the witness testimony that he has observed them at that place, all kinds of anchors.

Mr. OLSON.—Withdraw the last question. At the "Sheridan" what was the largest anchor in use that you saw?

A. I never saw any of [3053—2222] them weighed.

Q. What?

A. I never saw any of them weighed.

Q. You say you don't know how large the largest one was?

A. Anchors as big as Miller's.

Q. You did see some as large as Miller's?

A. As heavy as Miller's.

Q. How many?

A. I couldn't tell you how many. We may have had as much as twenty anchors down at the "Sheridan."

Q. Did you have any opportunity at the "Sheridan" of observing whether or not an anchor as large as Miller's was more serviceable from a holding standpoint than an anchor as small as two tons?



(Testimony of J. F. Haglund.)

A. I certainly did.

Q. Explain to us one of those instances where you were able to make that observation.

A. I saw some heavy anchors come home to the "Sheridan" when a smaller anchor held with the same strain.

Q. Do you know what the condition of the bottom was in each instance?

A. I didn't look at it.

Q. It might have been due to a small anchor being fast to a hard rock and a big anchor on soft material, isn't that true? Answer my question.

Mr. WARREN.—I object to that. Isn't that true, answer my question. He doesn't give the witness time to get half a breath.

A. I answered you, Mr. Olson. I didn't know the condition of the bottom out there. I didn't put out for a diver.

Q. Now then, Captain Haglund, so far as the "Sheridan" is concerned then, you were not able to make any observation [3054—2223] as to comparison between small anchors and big anchors?

A. I don't say there was any difference in the bottom.

Q. So you didn't have any opportunity of observing holding powers of big anchors and small anchors in so far as in that instance?

A. I have in many occasions.

Q. In that instances?

A. Yes, big anchors come home where small ones would not on account of being laid farther out. The bottom may have been exactly the same.

(Testimony of J. F. Haglund.)

Q. But you did not know?

A. I didn't look at it.

Q. So that in the case of the "Sheridan" you were, you are now unable to state that you there observed any comparison between big anchors and small anchors when the bottom was the same in both instances? A. I didn't state—

Q. You did not observe the bottom?

Mr. WARREN.—Finish your answer, Captain.

A. I observed the conditions as I have already stated, that if an anchor was laid far away it had better hold and the anchor, although it was bigger in weight, would come home, and I presume the bottom was equal.

Q. Kindly answer my question, Captain Haglund. The question was this, in so far as the bottom being the same was concerned, did you make any observations in the case of the "Sheridan"?

Mr. WARREN.—I object to the question as asked and answered.

The COURT.—It's answered.

Q. Now then, in the case of the "Manchuria," did you have any opportunity of making comparisons between big anchors and small anchors where the bottom was the [3055—2224] same under each anchor?

A. Not the "Manchuria." I laid the two first anchors. That's all I know.

Q. How big were the largest anchors?

A. Well, I couldn't tell you the weight.

Q. You don't know?

A. Big anchors. I don't know who they belong to.

Q. All you did was to lay them?

(Testimony of J. F. Haglund.)

A. They belonged to the "Manchuria."

Q. All you did was to lay them? A. I laid them.

Q. And that's all? A. That's all.

Q. How large were they in comparison to the Miller anchor? A. That I don't remember.

Q. Do you remember of any other case where you had any opportunity of observing by comparison between a big anchor with a small anchor; a big anchor as large as five tons or more?

A. I don't remember.

Q. What? A. I don't remember.

Q. You don't remember any? Now then, I'll ask you this, isn't it true that distance adds a buoyancy because it makes the angle that much less?

A. I have stated so.

Q. That is true, is it? A. That's true.

Q. Now then, Captain Haglund, are you prepared to say that the "Helene's" anchors had any advantage over the Miller anchor on account of distance? A. I do.

Q. What was the depth of the water where the Miller anchor lay?

A. Well, so near as I can judge, it was about five fathom.

Q. What is the depth of the water where the "Helene's" anchor was laid?

A. About seven fathom.

Q. About seven fathom?

A. Between six and seven. [3056—2225]

Q. And how much farther out were the "Helene's" anchors laid?

A. Over a hundred fathom farther out.

Q. A hundred fathom?



(Testimony of J. F. Haglund.)

A. Over a hundred fathom.

Q. How far was the Miller anchor laid from the stern of the "Celtic Chief"?

A. Little less than 700 feet.

Q. How much? A. Less than 700 feet.

Q. Now, what was the height above the water? About how far was the place at which the Miller anchor line went over the stern of the "Celtic Chief" from the bottom, from the bottom of the ocean?

A. I don't understand you.

Q. What? A. I don't understand you.

Q. How far was it from the point where the Miller anchor line went over the stern of the "Celtic Chief" to the sea bottom straight down?

A. Oh, about 39 feet, I think; approximately forty feet; something like that; that is, from the upper part of the ship where the line went in.

Q. Are you prepared to say that with only forty feet from the point at which the Miller line went over the bulwark of the "Celtic Chief" to the sea-bottom that the "Helene's" anchors would have an advantage lying in water one or two fathoms deeper than where the Miller anchor was laid, over the Miller anchor? A. They certainly would.

Mr. OLSON.—Now, if the Court please, I submit that this witness has shown absolutely and unqualifiedly that he has never been able to test the comparative holding power of the Miller anchor of five tons or more.

Mr. WARREN.—I won't insist on the answer to that question because I regard the cross-examination as having brought out what I intended to show.

(Testimony of J. F. Haglund.)

Wednesday, November 1, 1911.

Q. The last question and answer, Captain, was this: Are you prepared to say that with only forty feet from the point at which the line went overboard the bulwark over the "Celtic Chief" to the sea-bottom that the "Helene's" anchor would have an advantage over the Miller anchor. Do you understand that, Captain? A. Not clearly.

Q. I confess I don't.

A. Will you please read that once more, Mr. Warren?

(Question read: Are you prepared to say that with only forty feet from the point at which the line went over the bulwark of the "Celtic Chief" to the sea-bottom, that the "Helene's" anchors would have an advantage, lying in water one or two fathoms deeper than where the Miller anchor was laid, over the Miller anchor?)

Q. To which question you answered, they certainly would. Now, I want to ask you why the "Helene's" anchors would have that advantage?

A. In regard to holding power?

Q. Yes.

A. Well, "Helene's" anchors would certainly have an advantage on Miller's anchor under those conditions which existed out there.

Q. Why?

A. Helene's" anchor was laid approximately twice as far from the "Celtic Chief" as the Miller anchor were laid, and, in addition to that, the "Helene" had cable on her anchors.

Q. Cable?

A. Chain, cable chain on her anchors; ninety feet

(Testimony of J. F. Haglund.)

in length on her starboard anchor and sixty on her port anchor. It would naturally sag down on the bottom a longer distance than [3058—2227] Miller's wire would if there'd been a strain in proportion to one another.

Q. Do you know the approximate weight of the anchor lines of the "Helene"? First, give us their size? A. The chain was inch and a half size.

Q. Do you know the weight? A. The weight?

Q. Of course, I can get tables, Captain, but I want your approximate judgment.

A. As near as I could remember, to state that correctly, but as near as I can judge, inch and a half chain would weigh—

Mr. OLSON.—Now, just a moment. I object unless it appears that the witness is qualified to answer as to the weight of the chain, it not appearing that he is qualified.

The COURT.—I understand it is merely a guess.

Mr. WARREN.—This is to be his judgment, your Honor.

A. I couldn't state it correct unless I refer to the tables.

Mr. WARREN.—All right, I'll prove it by books, your Honor.

Q. Is there any other way in which the anchors and chains of the "Helene," coupled with the manner in which the "Helene" was connected with the "Celtic Chief" and with her anchors, which has anything to do with the advantage that you have testified about?

A. I don't understand your question, Mr. Warren.

Q. Are there any other reasons than the distance

(Testimony of J. F. Haglund.)

at which the "Helene's" anchors were laid and the weight of the "Helene's" anchor chains which would contribute to the advantage of the "Helene" equipment over the Miller anchor equipment?

A. As to their holding power, you mean? [3059—2228]

Q. Yes, and effective power.

A. Effective power?

Mr. OLSON.—Now, we're talking about holding power, if the Court please. I submit it should be limited to that otherwise it will be multiplicitous.

The COURT.—Yes, it should be.

Mr. WARREN.—Well, confine it to holding power, Captain.

A. Holding power? I can't think of anything else outside of what I already have stated.

Q. Now, as to lightering operations, Captain, at the "Celtic Chief." Under what conditions was this done aboard the "Celtic Chief"?

A. It was done with considerable, lots of difficulties alongside of the "Celtic Chief" on account of the surf was running in alongside of her and with regards to the danger of the men in the boats, and also to the boats.

Q. What danger was there, Captain, in your judgment, to the boats?

A. If one of them swells had broken where the boats were lying it would have capsized the boats, thrown them in on the reef and would through that injure the men.

Q. Any other danger than capsizing?

A. Capsizing and breaking up the boats.

Q. How?

(Testimony of J. F. Haglund.)

A. May have been smashed up against the ship's side through a breaking coming in which would have broken the boat and also injuring the men that were in the boats at the time.

Q. How could they be injured in the boat?

A. They may be thrown in between the ship's sides and the boat, they may get hurt in the boat by oars getting tangled up, boat thrown over and they get drowned which happens in some cases in our business.

Q. How was the cargo received into the boats?

A. It was hoisted up out of the "Celtic Chief's" hole by a [3060—2229] single burthen run to a steam winch, then swung out by a yard-arm burthen and lowered by same into the boats.

Q. How could that yard-arm burthen be operated?

A. It was operated by taking after the slingload was hoisted up from the hole, the slack was taken in off the burthen and a turn taken around the belaying pin and that swung out and afterwards lowered into the boat.

Q. Is there any way in which danger could be avoided to the men or the boats by operating this yard-arm burthen in any particular way?

A. Yes, there is.

Q. Yes? One that was used at the "Celtic Chief," I mean?

A. At the "Celtic Chief" there was no other means of doing it because for one reason we were working one gang, the winch was in such condition that if you run the burthen fall to the yard-arm burthen to the winch, it was not powerful enough to raise that sling up to avoid that danger.



(Testimony of J. F. Haglund.)

Q. What danger would there be if you couldn't raise the sling?

A. The danger would be that the boat is liable to raise itself up against the slingload in the swell and the men may get hurt with the slingload. The slingload may have struck the boat on her gunwale and capsized the boat or it may get between the boat and the ship's side and get under the boat and capsize the boat.

Mr. OLSON.—Move to strike except what is responsive to the question, namely, what was the danger from this yard-arm and the sling?

The COURT.—Motion is denied. [3061—2230]

Q. Why, in your judgment, was this winch not powerful enough to do that?

A. Well, that proved itself by hoisting the load from the hole.

Q. How many bags of fertilizer in a slingload?

A. The average slingload was about four bags, from three to four bags.

Q. And do you know the weight of a bag?

A. The nearest to my judgment it would be about, average two hundred, over two hundred and twenty-five pounds, so near as I could judge.

Q. How long would it take with that winch to hoist an average slingload from the hole out over into position to be lowered?

A. Well, I don't remember ever timing that, but it was hoisted very, very slowly.

Q. Do you personally, do you know of your own knowledge what was the matter with that winch, if anything? A. I do not.

Q. What's that? A. I don't know.



(Testimony of J. F. Haglund.)

Q. Do you know what kind of water was used for the boilers?

Mr. OLSON.—Object to the question on the ground that it is leading.

Withdraw the objection.

A. I know that there was salt water used for the boilers because I saw it pumped on board into the boiler.

Q. Now, you say you were working two hatches?

A. Yes, sir.

Q. How long did you continue to work two hatches with this one winch?

A. If I remember correctly, it's up until Wednesday, about noon time.

Q. How could you use this winch for two hatches?

A. Well, the winch had a gypsy-head or barrel on each side of the forward house, so each of the falls [3062—2231] were lead to each of the gypsy-heads.

Q. That is, you say, one fall from each hatch?

A. One fall from each hatch was lead to the opposite gypsy-head.

Q. How were those operated?

A. Well, we could, at no time, have hoisted them at the same time because the winch wasn't powerful enough. We had to hoist them alternately. When one load was hoisted out, swung out to the yard-arm burthen, of course, the winch will hoist the load out of the other hole.

Q. Now, when you, after twelve o'clock on Wednesday at which time you stopped using the winch for both hatches, how was the lightering done?

A. A scow was sent out there with a steam engine

(Testimony of J. F. Haglund.)

aboard of her and it was moored on the "Celtic Chief" port side, amidships, and the fall was used for taking the cargo out of the main hatch was put to the winch on the scow.

Q. How many bags of fertilizer taken out in a sling with the donkey on the scow?

A. Well, on account of the swell that was rolling in there it was rather difficult to keep the scow in a stationary position, consequently, we couldn't put in very big loads, only from four to five bags, if I remember **correctly**.

Q. How long did it take to get a slingload from the hatch and over to the yard-arm with that winch?

A. Considerably less time than hoisting it up.

Q. Well, comparatively how long?

A. Half of the time, I should judge, as near as I can remember.

Q. Now, after the donkey was brought out on the scow and used for the main hatch, why couldn't you use the [3063—2232] yard-arm burthen fall on to the cylinder or a gypsy head of the winch to raise a slingload if necessary?

A. Well, for the reason that I have already stated, the winch was **not** powerful enough, not quick enough.

Q. How were these lightering operations conducted after dark, say during Tuesday night and Wednesday night?

A. They were conducted in the same manner as during the day; may be only little more difficulties on account of the darkness.

Q. How would darkness make any difference in the difficulty?

(Testimony of J. F. Haglund.)

A. Well, in darkness, of course, no one can see the swell coming in before it strike the boat, while in daylight you will be prepared for them so near as you could.

Q. In your judgment was the "Celtic Chief" in any danger by reason of her position on the reef?

A. Yes, she was.

Q. On what do you base that opinion? State your reasons for that.

A. On practical knowledge.

Q. Well, of what was she in danger?

A. She was in danger of springing a leak for one thing.

Q. How could she spring a leak?

A. Thumping and grinding on the reef on the bottom. She was also in danger of in case anything shall happen to the towlines of the towing steamers as the wind placed her on the reef and from that would be bilged and probably a total loss, cargo and ship both.

Q. What conditions were there which would have any tendency to throw her broadside?

A. There was quite a swell running in on the southward and eastward which struck the ship on the starboard quarter a couple points, so near as I can judge. Wind and current had both the tendency to swing her stern [3064—2233] to the westward, as well as the swell.

Q. In your judgment, were any of the Inter-Island steamers in danger at any time in those operations? A. Not in great danger.

Q. What danger?

(Testimony of J. F. Haglund.)

A. What may happen to the towlines, foul up. That's the only danger there was there in regard to those steamers.

Q. Well, in the event of anything happening to their towlines what might the consequences be?

A. May foul her propeller and disable her; may have been a collision between the different boats.

Q. If a hawser should part, how long do you think it would take to get the engines of the steamer stopped?

A. Well, that depends to a great extent where the engineer would be at the time you gave the signal to stop the engine.

Q. Supposing the engineer to be in the most convenient position and the signal given under the most favorable circumstances for it being done?

A. Merely a few seconds.

Q. How long would it take for a hawser to get into a propeller?

Mr. OLSON.—Object to the question on the ground that it calls for a conclusion on which it is impossible for the witness to give any definite statement.

Mr. WARREN.—I'll change that would to might. How long might it take for a hawser to get in a propeller?

Mr. OLSON.—I submit there again the witness is not qualified to answer and it is something on which the Court requires no opinion from this witness.

Q. Would it be possible for a hawser to get into the propeller before the engines could be stopped even under the most favorable conditions? [3065—2234]

(Testimony of J. F. Haglund.)

Mr. OLSON.—Object to the question on the ground it is calling for a conclusion of the witness, the opinion of the witness, and the witness is not qualified to answer and also a matter on which no opinion is required.

Let me ask a question or two of the witness.

Q. Captain Haglund, how often have you seen lines get afoul of propellers of steamers?

A. Many times, Mr. Olson.

Q. You have seen it many times?

A. Many times.

Q. How many times have you see a propeller injured by lines getting afoul of the propeller?

A. I don't understand your question clearly.

Mr. OLSON.—Repeat the question, Mr. Stenographer. (Question read.)

A. I never saw any propeller injured, but I seen many a line get injured by it, and in a few cases, accidents to the ship.

Mr. OLSON.—That's all.

Mr. WARREN.—I submit the witness is qualified to answer, your Honor.

Q. I'll ask you Captain, where has your experience been in this matter of seeing hawsers parted and getting into the propellers?

A. Here, in the Inter-Island steamers in Honolulu harbor and also outside in other ports, quite often get a stern line in when it parts, or a towline.

The COURT.—What class of boats at these different experiences as compared to the kind of boats engaged out there at the "Celtic Chief"?

A. Same kind of boats.



(Testimony of J. F. Haglund.)

The COURT.—It seems to me that Captain Haglund is qualified? I allow the question. (Question read.) [3066—2235]

Mr. OLSON.—I object on the ground it is leading.

The COURT.—I sustain the objection. The form of the question is leading.

Q. What is the shortest time, Captain, in your experience in which you've seen a hawser snap, part, and get into her propeller? A. Less than a second.

Q. What is that? A. Less than a second.

Q. What were the conditions in that case where it got into the propeller in less than a second?

A. The towline being fast forward of the propeller and immediately, one or less than one revolution would drag it in.

Q. Would it make any difference where the hawser parts as to the danger of it getting into the propeller?

A. Yes, it does, and it also depends on the where a hawser is fast aboard the towing ship.

Q. And, in your judgment, was there any danger of any such thing as that happening out here on the "Celtic Chief"?

Mr. OLSON.—Object to the question on the ground the question has been fully answered.

The COURT.—The objection is sustained.

I set aside my ruling, it appearing the question is different from what I first thought.

Mr. OLSON.—Then I object on the ground that the witness is not qualified to answer; furthermore, it is calling for a conclusion of the witness where no opinion is required.

The COURT.—I'll sustain the objection.



(Testimony of J. F. Haglund.)

Q. Now, Captain, did you bring a sample of the "Mauna Kea" hawser that was used out there at the "Celtic Chief"? A. I have.

Q. Is this the piece? (Handing witness piece of rope.) [3067—2236]

A. That's the piece from the "Mauna Kea."

Q. Do you know about what part of the hawser this is taken from?

A. Taken from the part I've got in the warehouse now.

Q. Do you know whether or not it was taken from the end or from the middle or as near where as you can give us?

A. I couldn't possible state. I could state it was not taken close to either end, but how far from the end I could not state.

Q. Using this, well, I guess, perhaps, we'd better have this in evidence before I question on it.

Mr. OLSON.—I have no objection to this being offered in evidence.

Mr. WEAVER.—No objection on behalf of the Miller Salvage Company.

(Libellant's Exhibit "O," Testimony of Capt. Haglund.)

Q. Now, using this sample, Captain and referring to your testimony of the other day as to internal wear of the hawser, will you indicate to the Court what you mean by that on this sample?

A. By opening the lays of the rope you can see the way the yarns are powdered up, the internal part of it. You wouldn't find that in a newer rope without being stretched. The life is out of this rope.

(Testimony of J. F. Haglund.)

Mr. OLSON.—I move to strike that last statement on the ground that it not responsive.

The COURT.—I sustain the objection.

Mr. OLSON.—Then the motion is granted, as I understand.

Q. Well now, looking at this sample, Captain, I'll ask you, basing your answer on your experience, what effect on the life of the rope has this condition that we see here.

Mr. OLSON.—I object to the question on the ground that [3068—2237] the condition of that rope has already been fully gone into by the witness.

The COURT.—Objection overruled.

A. The tensile strain of this rope in the condition it is now is certainly not much more than half of its tensile strain when it was new, approximately, I should judge, and, consequently useless for the purpose that it was made for.

Q. Looking at the interior condition of one of these strands what is shown by that appearances as to the—

A. The appearance of them yarns, in the center, half yarn, as we call them, they look as if there was nothing the matter with them, but they're all strained and can be picked to pieces, than you could a new yarn of a similar rope. The oil is out of it and the life is strained out of the rope.

Q. What difference does it make whether there is oil in or out of rope, Captain?

A. Well, most ropes is made with oil and a severe amount of strain on that rope. The oil is greased out of it and that forms a sort of a—

(Testimony of J. F. Haglund.)

Q. Do you know from your experience, approximately how much of this hawser has been stretched to the foot?

Mr. OLSON.—Now, just a moment. I object on the ground it doesn't appear that the witness is qualified to testify on that point.

The COURT.—Objection overruled.

A. The stretch of the rope depends a good deal of how it's made up. [3069—2238]

Q. Now, referring to this particular rope.

A. When this particular rope was new, it looked altogether different regarding the lays than it does now.

Q. What do you mean by the lays?

A. It was shorter. This piece of rope, one, two, three, four, five strands when it was new probably showed may be seven.

Q. How do these strands or lays compare in size with their size when new?

A. Well, a rope, after it's been in the water, as a rule, swells up a great deal, but while it's under strain, the longer and the severer the strain is put upon the rope, of course, the smaller it gets in regard to its diameter or circumference, but after letting go that strain the rope being in the water it will still maintain the same circumference as it had previous and may be bigger.

Q. Now, did you try to get, Captain, part of a new twelve-inch manilla hawser? Have you a sample of a new twelve-inch hawser of this kind or line?

A. Not of this particular make, no. I could get a fourteen-inch hawser which we have in the ware-

(Testimony of J. F. Haglund.)

house for the purposes of the "Mauna Kea" in case of heavy tows. Finding out that the twelve-inch was not strong enough so we got out a fourteen-inch hawser in the warehouse.

Mr. OLSON.—I move to strike all the testimony in regard to the fourteen-inch hawser, it being immaterial.

The COURT.—Motion is granted.

A. And I also have a twelve-inch hawser, but the lay of it is a little more soft lay in comparison to what this—

Q. Did you bring a sample of an eight-inch line that was approximately the same make and lay as that twelve-inch line was?

A. Approximately the same. [3070—2239]

Q. Is this a sample of the eight-inch? (Handing piece of rope to witness.)

A. That's an eight-inch line, yes.

Q. Now, I'd like to offer this in evidence.

Mr. OLSON.—I object to the evidence on the ground it is immaterial.

Mr. WARREN.—I'd like to offer this in evidence as a sample of a new rope of the same lay, as the witness puts it, as this twelve-inch hawser was when new, for the purpose of permitting the Court to compare the hardness and internal appearance of strands between new and old rope, this being the nearest we can come in material and make to the other rope.

Mr. OLSON.—I object to the offer on the ground that it's immaterial, it not being the same size, being smaller.

The COURT.—It think I should sustain the objection. The objection is sustained.

(Testimony of J. F. Haglund.)

Mr. WARREN.—What is the comparative hardness of a new strand of this hawser as compared with its present condition?

A. Much harder. You couldn't when that rope was new, open up with your finger like you can now.

Q. Is there any difference, taking a new twelve-inch hawser of this kind and a new eight-inch hawser, any difference in the hardness of their strands?

Mr. OLSON.—Object to the question on the ground that it is immaterial.

Mr. WARREN.—Because I can't produce a sample of this line as new or a line like it when new, when I can produce and offer to produce a sample of an eight-inch line of the same lay, make, and material, as this twelve-inch line was when new. I'd like to ask the question if it's possible to buy a hawser of that sort in E. O. [3071—2240] Hall's or anywhere in this territory, Captain?

A. Not in Honolulu.

Q. I'll ask you further, Captain, can you produce a sample of an eight-inch manilla hawser such as was used by the steamer "Mikahala" at the "Celtic Chief" operations?

A. That's one, that is the eight-inch line as used by the "Mikahala" at the "Celtic Chief operations; also by the "Likelike."

Mr. WARREN.—I offer it is evidence.

Mr. OLSON.—I object to it, it is immaterial.

The COURT.—I think it should not be admitted for that purpose. I sustain the objection at this time; if there is any other purpose we will consider that.

Recess.



(Testimony of J. F. Haglund.)

Mr. WARREN.—I understand, Captain, that you saw the hawsers of the "Helene," both before and after the "Celtic Chief" operations. Now, directing your attention to the hawser which was put on by the "Mikahala" on Monday and which you say later was cut, will you describe the difference in condition between the hawser as new and after the operation?

Mr. OLSON.—I object to the question on the ground it has already been fully gone into.

Q. Directing your attention to the hawser of the "Mikahala" which was put on on Wednesday, second one, which you said you also saw. I'll ask you to describe the difference in condition between the hawser as new and as it appeared after the operation?

A. Well, in looks I should judge it would be half worn as you call it. By that I mean maybe a half of the tensile strain been taken out of it.

Q. Now, in saying heretofore that a line after being so used is only fit for tying up purposes of tying up [3072—2241] rope. What do you mean by tying up rope?

A. Well, a rope of this kind, this twelve-inch hawser is now, is sold to the junkman or secondhand man, whatever you may call it and he sells the inside yarn to Chinamen for tying up bananas, bags of any description; may be used for tying up bundles in some cases.

Q. Why in mooring lines? Why in your testimony before why did you say it was fit for mooring lines in Honolulu Harbor?

A. In Honolulu Harbor, yes, I answered that. You don't have to have very good lines because the



(Testimony of J. F. Haglund.)

harbor is smooth and there is no motion to the ship outside of the time that you are turning her engines over then you have to run out a good string to work on.

Q. When you got back on the "Celtic Chief" on Wednesday night, after making the rounds of the vessels, did you then observe the Miller line over the stern? A. I did.

Q. Describe its position at that time as to whether or not it was taut or otherwise?

A. Well, in my opinion it was not so taut as it could have been made by the purchase that was rigged up aboard the ship there for that purpose.

Q. You understand how that purchase tackles were rigged by the Miller Salvage Company, do you?

A. I do.

Q. Do you know how many men it required to fleet the second luff tackle? A. Second luff tackle?

Q. Yes, third purchase, second luff?

A. That all depends on how rapidly you want to do it. It could be shifted. The second luff could be shifted comfortably enough with four men.

Q. How many sheeves in the block of the tackles [3073—2242] on the second luff?

A. On the second luff, if I remember correctly there was two double sheeve blocks.

Q. And how many sheeves in the first luff tackle?

A. As near as I can remember it was three.

Q. And in the main tackle? A. Three also.

Q. What experience have you had in the rigging of tackles of that kind?

A. Quite a lot of experience in rigging up purchase tackles.

(Testimony of J. F. Haglund.)

Q. Are you able to determine that any given set of tackles what the ultimate force will be on the main purchase when rigged similarly as the Miller tackles were rigged, with the aid of scientific books if necessary? A. Yes, I could.

Q. Do you know the size of the ropes used by the Miller Salvage Company?

A. Well, I never measured the ropes out there, but so near as I can remember, I think—

Q. By looking at them what would you say?

A. By looking at them I should judge the main purchase was about six, maybe seven-inch rope; that is, circumference. And the first luff, I should judge, was about five-inch line; maybe five and a half. And the second luff or the treble tackle maybe three and a half inch, maybe four-inch. I don't call it to memory so very well, but nothing heavier than a four-inch anyway.

Q. Well, now, considering tackles such as the Miller Salvage Company tackles were rigged on that occasion, I'll ask if you can tell us how many feet of line the fall would have to be heaved in by the capstan or other means to move the block on the main tackle one foot?

A. To move the block on the main tackle? [3074—2243]

Q. Yes, the main tackle, where it was made fast to the manilla hawser?

A. To move that block a foot would require to heave in six feet of the pulling part of that rope and on the second tackle, which was the same treble blocks, would require six times that would be thirty-

(Testimony of J. F. Haglund.)

six feet. The *the* second luff, which was four rove would be four times thirty-six, would be one hundred and forty-four feet on the third fall.

Q. Do you know, Captain, independently of the use of any scientific book, what their proportionate force would be if one pound pull were exerted upon the fall of the second luff tackle, how much power had to be applied to the main block on the main tackle. Do you know the proportion independently of books?

A. No, I couldn't figure that out in my head. I might the first tackle. The first tackle, say, one tackle at a time, but I couldn't possibly figure it out in my head on luffs or second purchase upon purchase.

Q. Do you know how the Miller wire was supplemented to bring the Miller line as a whole on board the ship?

Mr. WEAVER.—I object to that as leading.

Mr. WARREN.—Do you know how it was rigged, Captain? Do you know how the Miller line was rigged at the stern of the ship?

A. How it was rigged?

Q. Yes.

A. Well, there was a wire leading from the anchor, a ten-inch line, as *I* near as I can judge, shackled to the wire, the main wire.

Q. Do you know the size of the hawser?

Mr. WEAVER.—I object to that, it is not shown he knows any hawser.

Q. Well, go on, Captain, then. Through that same shackle where the ten-inch line was shackled on,

(Testimony of J. F. Haglund.)

what kind of a wire?

A. Ten-inch manilla [3075—2244] rope. There was a preventer wire run through, I should judge about probably maybe a half an inch to three-quarter inch diameter wire for a preventer rig.

Q. How was that preventer run?

A. It was run inboard through—

Q. How, with respect to the shackle?

A. It was rove through the shackle. The two ends went on board of the "Celtic Chief," if I remember correctly. Whether that was put on for the purpose of strengthening this ten-inch manilla hawser or not, of course, I don't know, but it was there.

Q. Now, can you give us from the tables the tensile strength of the wire?

A. That ten-inch manilla rope?

Q. Can you find in this, Captain, the tensile strength of the wire?

A. I don't know the size of the wire exactly.

Q. Well, for the wire that you have described, three-quarters inch in diameter?

A. Tensile strain of a three-quarter inch galvanized steel wire would be twelve ton and three-tenths.

Q. What book are you using? A. Roebling's.

Q. Now, you get back to iron wire. Of course, the tensile strength is a great deal less. Now, for instance—

Mr. WEAVER.—What's that?

A. The tensile strength of an iron wire.

Mr. WARREN.—Steel.

A. I testified about steel.

Mr. WEAVER.—Is there a difference between the

(Testimony of J. F. Haglund.)

strength of galvanized steel with a steel wire not [3076—2245] galvanized?

A. The strength of it is not different, but there is a great deal of difference between a steel wire and an iron wire.

Mr. WARREN.—And the tensile strength of a ten-inch manilla hawser.

Mr. WEAVER.—What is the witness reading from?

Mr. WARREN.—That is Tubbs' Manual.

A. 78,370 pounds.

Q. That in tons is?

A. Thirty-nine tons, approximately.

Mr. WARREN.—This is from Tubbs' Manual. With the hawser and wire lines as you have described the hawser shackled to the cable wire, and a small wire coming through the eye of the shackle, can you tell us what would be the greatest amount of strain which could be put on that combined rigging from the shackle up.

Mr. WEAVER.—One moment. I object to that.

Q. Taking into consideration these breaking strains of the hawser and wire that have just been given.

Mr. WEAVER.—I object to the question as a hypothetical question, it is indefinite and improper in this case for the reason that it doesn't apply to the case particularly.

I withdraw my objection.

A. Well, the greatest amount of strain that could be put on there without breaking would be the tensile strain of the manilla hawser, ten-inch manilla



(Testimony of J. F. Haglund.)

hawser and one part of that steel wire.

Q. Why?

A. Because the bight of that steel wire running through that shackle is such a short bend that it wouldn't act in the same manner as it [3077—2246] would if it was run over a big sheeve. It would break in that particular part. If it was run over a big sheeve, of course, it would be double the strength of a single part.

Mr. WEAVER.—I move to strike out that last part of the answer as a conclusion of the witness. The witness is not an expert and it is hearsay.

Mr. OLSON.—Same objection.

Mr. WARREN.—Then I'll ask you, Captain, if you know what the size, the thickness of the object, whether part of the shackle or otherwise—

Mr. WEAVER.—Is my motion granted?

The COURT.—Yes.

Mr. WARREN.—Through which this wire was run? In other words, what was the diameter of the object around which it passed?

A. Well, I don't exactly remember the size of the shackle, but it, I shouldn't think it would be over two inches at the very most, in diameter.

Mr. WEAVER.—I move to strike out that answer.

Mr. WARREN.—Where did you see the shackle?

A. I have seen the shackle in the wire on board the "James Makee," not at that particular time. Whether that was the same shackle or not I don't know.

Q. How near did you see the shackle on the



(Testimony of J. F. Haglund.)

manilla wire? What was the closest point, to your view?

A. At this time, on the "Celtic Chief," I did not see it out there.

Q. Oh, you didn't see it at all? A. No, I did not.

Mr. OLSON.—Well, I move to strike the witness' statement with regard to what he saw on board of the "James Makee."

Mr. WARREN.—No objection. [3078—2247]

The COURT.—So ordered.

Q. Assuming, Captain, that shackle to be in diameter, either pin or the arms, to be one and a half or two inches, what, in your judgment would be the relative strength of that wire rove that way?

Mr. OLSON.—I object to the question unless it first appears that the wire was rigged in that way.

Mr. WARREN.—I think that if I may reserve that question to go over until the morning until I look through the testimony, I have very few more questions. What in your opinion, Captain, was the cause of the floating of the "Celtic Chief," stating upon what you base your opinion, including your own experience in salving vessels, in maritime matters and in navigation, as well as your knowledge of the facts.

Mr. OLSON.—Object to the question on the ground it calls for the opinion of the witness, he is not qualified to answer and there is no proper foundation laid.

Mr. WEAVER.—I make the same objection.

The COURT.—It may be understood, Mr. Warren, that the question shall be limited to his own knowledge.

(Testimony of J. F. Haglund.)

Mr. WARREN.—The question is put to his own knowledge of the facts and his own experience altogether independently of what he has heard from the testimony of other witnesses.

I have no objection if counsel for Miller Salvage Company wish to cross-examine him further on this before he answers.

May I ask another question or two?

The COURT.—Yes.

Q. Can you state, Captain, approximately what strain there was, if any, upon the Miller line from eleven o'clock on until the ship came off?

Mr. WEAVER.—I object to that as calling for an opinion of [3079—2248] the witness on the ground he is incompetent to answer and on the ground it would be merely hearsay and not within any observation.

Q. What in pounds or tons, in view of your knowledge of the way that Miller tackle was rigged throughout and the power used on the second luff?

Mr. WEAVER.—I object to that, if your Honor please, as calling for an opinion of the witness on a question which is hypothetical and indefinite being based on no sufficient foundation.

Q. I'll ask you, Captain, if you know and could you judge from your experience whether or not a winch, which was the more powerful, the ship's winch or the capstan as used by the Miller men. You know how the capstan was operated, do you, Captain? A. I do.

Mr. WEAVER.—I object to that, if your Honor please, as leading.

(Testimony of J. F. Haglund.)

Q. I'll ask you, Captain, if this winch was operated by sixteen men, I mean the capstan, was operated by sixteen men; I'll ask you now, if you can tell us which, in your judgment, was the more powerful, the capstan or winch.

Mr. OLSON.—I object to the *question the* ground it doesn't appear that the witness knows all the facts necessary for the purpose of answering the question.

Mr. WEAVER.—I make the same objection.

The COURT.—Let's see what he knows about the capstan first.

Q. What kind of a capstan was that?

A. That is the ordinary ship's capstan.

Q. Did you see it?      A. I saw it.

Q. Do you know how many bars there were?

[3080—2249]

A. If I remember correctly there was eight bars.

Q. Did you see it being operated by the Miller men?

A. I saw the Miller men leaving on it occasionally.

Q. And between occasions what did they do?

A. Miller's luff tackles was laid to the steam winch of the "Celtic Chief" several times to my knowledge.

Q. What time of day was that that they used the winch?

A. Different times of day and also during the night.

Q. How?

A. That winch was used by Miller's tackles after eleven o'clock on Wednesday night that I can testify to.

(Testimony of J. F. Haglund.)

Q. Which, the winch?

A. Winch, the barrel of the winch.

Q. You remember that? A. Yes, sir.

Q. How frequently do you know whether or not any requests were ever made by Captain Miller or his men for the use of the winch?

A. I couldn't state that I heard of any request, but I heard Captain Henry telling Captain Miller not to delay the discharging of the cargo by using that winch. I heard that. That was on Wednesday afternoon.

Q. Prior to that time do you know whether Captain Miller was using the winch?

A. Prior to Captain Henry—

Q. Yes, prior to Captain Henry saying that?

A. Yes, he did.

Q. After that, do you know when Captain Miller commenced using it?

A. I couldn't tell the time Tuesday or Wednesday night that I can tell. It was after eleven o'clock, between eleven and half-past eleven because I was down on the main deck right along the main hatch when I saw it.

Q. Was that winch ever out of use by both sides, both parties? Was there any time when it was not in [3081—2250] use either by the Inter-Island or by Captain Miller?

A. Not up until shortly before midnight I couldn't tell you exactly. It may have been half-past eleven or may have been few minutes later, I couldn't very well state that to a minute. We was discharging with the winch from the "Celtic Chief's"

(Testimony of J. F. Haglund.)

port side into the boats, "Helene's" boat on the port side of the "Celtic Chief" and the barrel on the starboard side of the "Celtic Chief" was used for discharging freight at that time.

Q. What difference was there in the speed in which the fall from the second luff was taken in by the capstan and by the winch? A. Oh—

Mr. WEAVER.—I object to that unless it is shown that the witness knows and observed of his own knowledge what the difference was.

Q. Did you see them taking ropes in by the winch, Captain? A. Yes.

Q. And by the capstan? A. Yes.

Mr. WARREN.—I submit he can answer the question, your Honor.

The COURT.—I allow the questionn.

Mr. OLSON.—Just a moment, I'm going to object to that question on the ground that it is immaterial unless it appears that the resistance at the times that the comparison was made was the same.

Q. I'll add to my question, Captain, while the Miller Salvage Company were heaving on their tackles?

A. While they were heaving on them?

Q. Yes. Any difference in speed while they were heaving on their tackle?

A. Yes, there certainly was.

Q. Approximately how much?

A. Oh, the difference in the percentage of it, I could't very well state. When the tackle is slack, of course, naturally enough, the fall will come in more rapidly than [3082—2251] after they commenced



(Testimony of J. F. Haglund.)

getting strain on it.

Mr. WARREN.—I think it is proper now to ask the question which in your judgment, Captain, was the more powerful of the two, heaving by the capstan or by the winch?

Mr. OLSON.—Object to the question on the ground that it doesn't appear that the Captain knows either the power that the men were capable of exerting or the power of the winch.

Mr. WEAVER.—We object to the question on the same grounds.

Mr. OLSON.—And, therefore, he is not qualified to answer.

The COURT.—I'll sustain the objection without prejudice to your adducing further proof.

Q. So then, Captain, you really can't say whether there was any power at all on the Miller line, can you?

Mr. WEAVER.—I object to that, if your Honor please, as leading.

The COURT.—I sustain the objection.

Q. Do you know how much power, if any, was exerted on the Miller line?

A. Well, I know there was not so much power, exerted on that line as the tensile strain of a ten-inch manilla rope, how much less, of course, I'm not prepared to say.

Mr. WEAVER.—I move the answer be stricken out as being the opinion of the witness and the witness is not qualified to answer.

The COURT.—It seems to me the fairest thing I can is to allow the other side to ask questions to show



(Testimony of J. F. Haglund.)

what he bases this opinion upon.

Mr. WARREN.—Then your Honor reserves your ruling on the motion to strike?

Q. Having just stated, Captain, that that strain was not [3083—2252] enough to break that ten-inch manilla hawser, I'll ask you on what do you base that statement?

A. Well, before I came aboard the ship about eleven o'clock, that line, that wire outside of the "Celtic Chief" leading to Miller's anchor was lying in considerable sag, as I have already stated, and after getting on board the ship, seeing that the capstan or the steam winch on the "Celtic Chief" were used for the purpose of hauling in the double luff, I certainly could take for granted that there was no heavy strain on it or else it would have been left to the capstan. It may be more powerful on that winch. I know how much that winch could lift because we tried that the biggest part of Tuesday, Tuesday night, the whole Wednesday, and part of Wednesday night, and I know that winch couldn't lift no more than about a half a ton at the most.

Q. Anything else? How would that effect the question?

A. Well, that shows the proof that it wasn't anywhere near the tensile strength of that eight-inch hawser, even. The preventer, as I have stated had nothing to do with the tensile strain of that ten-inch hawser.

Q. Why not?

A. Because it is impossible to reinforce, as counsel states, a manilla hawser with wire rope. You may do it for a second, but not any continuous strain, it's

(Testimony of J. F. Haglund.)

going to wear, and I never saw that reinforcement changed at any time after it was put on that night. It was merely put on for a preventer in case the manilla hawser parted that they won't loose the whole wire overboard.

Q. Now, taking your experience into consideration and the handling of tackles, their uses, the approximate powers that you can get out of them and your statement [3084—2253] that that winch at the most could lift not more than half a ton, I'll ask you if you can give us approximately how much of that power would be used by any friction or resistance in the operation of the tackle?

Mr. WEAVER.—Object to that, if your Honor please, as calling for an opinion of the witness in matters he is not an expert in; further, that he is not shown to be competent.

Thursday, November 2, 1911.

The COURT.—I will require a better showing of qualifications, Mr. Warren.

Mr. WARREN.—I'm satisfied to let that question rest that way.

Mr. OLSON.—Then I submit there is only one thing can be done and that is that the objection be sustained.

The COURT.—I will so rule.

Mr. WARREN.—I think nevertheless, your Honor, the witness is qualified now to go back to the question as to what, in his judgment, pulled the vessel off the reef. I ask now that he be allowed to answer that question.

(Testimony of J. F. Haglund.)

Mr. OLSON.—Well, of course, we renew our objection.

Mr. WEAVER.—We renew our objection to that on behalf of the Miller Salvage Company.

Q. Captain, do you know anything further respecting the Miller line and tackles particularly during the time from eleven o'clock on Wednesday night, about which you have not yet testified?

A. I know by the way the winch was running on the last hauling that there was much less than a half a ton weight on that tackle because it'd come in much more freely than they did, than hoisting the fertilizer out [3085—2254] of the hole. That's how I know there must have been a great deal less than a half a ton put on that winch at that time between eleven and half past eleven.

Mr. WARREN.—Now I think, your Honor, that that is sufficient. This witness knows the maximum power which might be exerted.

Q. How many times that night after eleven o'clock, did you observe the Miller line over the stern?

A. A few times, I don't know the number of times.

Q. About how frequently?

A. Oh, that I couldn't tell.

Q. Was there, at any time, any change in its position from what it was in at eleven o'clock as you have already testified? A. Not to my knowledge.

Q. If there had been any change would you have known it?

Mr. WEAVER.—I object to that as leading.

The COURT.—I think it is leading. I sustain the objection.

Mr. WEAVER.—I further object to it on the

(Testimony of J. F. Haglund.)

ground that it calls for an opinion of the witness.

Q. Where were you, Captain, during the evening after eleven o'clock? What part of the ship?

A. Anywheres from amidship aft, there around the main hatch a great deal, and I was also up on the poop around the Inter-Island lines; stationed men there with axes to be ready to cut when orders were given.

Q. Did you, at any time, observe any change of condition—

Mr. WEAVER.—One moment. I object to that as an indefinite question and unintelligible.

The COURT.—I assume the question refers to the Miller line.

A. I did not.

Q. Could there have been any change without your knowledge? [3086—2255]

Mr. WEAVER.—I object to that, if your Honor please, for the same reason. Object to it as calling for a conclusion of the witness and also leading.

The COURT.—That question, it seems to me, also to be leading. The proper thing would be to show just what the witness did observe during these different times and the different places.

Q. Then, I'd ask you, Captain, what was the greatest interval of time during which you were absent from the poop deck after eleven o'clock that night?

A. I was around the main hatch quite frequently during that time between half-past eleven and eleven o'clock and observed that winch maybe just as many times as I was down on the main deck, and, of course, the number of times, I cannot state.

Mr. WEAVER.—I move the answer be stricken

(Testimony of J. F. Haglund.)

out as irresponsible to the question.

Mr. WARREN.—No objection.

The COURT.—So ordered.

Q. The question is directed to the length of time which length of time you were absent from the poop deck and the point being your opportunity for observing the Miller line over the stern.

A. The Miller line over the stern, I didn't observe as often, by any means, as I did the winch, the power that was put on the line.

Mr. WEAVER.—I move that be stricken out as irresponsible to the question.

I withdraw my objection.

Q. Now, I'll ask you what was the greatest interval of time in which you might say you did not observe the Miller line over the stern? [3087—2256]

A. I could not state the interval.

Q. Approximately, you don't have to give us the number or minutes or seconds?

A. Even that I couldn't state correctly. I didn't time myself, how many times I looked over the stern and observed the Miller's line leading over the stern down to the water, but what I claim is I saw the power quite frequently that was put on them lines, on the tackles to tighten that line and I know how little could be exerted on that pull.

Mr. OLSON.—Move to strike on the ground it is a conclusion of the witness and furthermore, it is not responsive; the last statement made.

Mr. WEAVER.—I join in that motion.

The COURT.—I sustain the motion as to that part of the answer which is a conclusion in regard to the small amount of power.



(Testimony of J. F. Haglund.)

Q. Could you state, Captain, whether or not the greatest interval would be nearer one minute than fifteen minutes?

A. Observing the line over the stern?

Q. Yes, between times of observing that line over the stern.

A. That may have been nearer fifteen minutes than one minute, I admit that; but how much nearer, that I couldn't state.

Q. From your experience in handling lines, tackles, and so forth, of the line under consideration, would it, in your judgment have been possible for any material change of condition of that Miller line to have taken place within fifteen minutes?

Mr. OLSON.—Object to the question on the ground that the witness is not qualified to answer, it not appearing that he knew all the conditions that existed with reference to that line; furthermore, on the ground it [3088—2257] is calling for a conclusion of the witness when no proper foundation has been laid.

Mr. WEAVER.—I join in that motion.

The COURT.—Objection is overruled.

A. It would have been so small that it would have been hardly noticeable.

Q. How's that?

A. It would have been so small that it would have been hardly noticeable.

Mr. WARREN.—Now I submit that the witness has satisfactorily covered the ground. He's testified that possibly the longest interval would be fifteen minutes but within that time no noticeable change could have been brought about.

(Testimony of J. F. Haglund.)

The COURT.—I will allow the question.

Mr. OLSON.—What is this, the opinion of the witness as to what was the operating force in bringing off the “Celtic Chief”?

The COURT.—Yes.

Mr. WEAVER.—Of course, we make the same objection to that.

Mr. WARREN.—The question was, Captain, what, in your opinion, was the cause of the floating of the “Celtic Chief,” stating upon what you base your opinion, including your own experience in salving vessels, in maritime matters, and in navigation, as well as your knowledge of the facts, it being understood that it is to be your personal knowledge of the facts.

Mr. OLSON.—To which we interpose the same objection, if the Court please.

Mr. WEAVER.—The Miller Salvage Company interpose the objection heretofore.

Mr. OLSON.—The objection is overruled, as I understand it? [3089—2258]

The COURT.—Yes.

A. Well, I would state that, in my opinion, it was due to different agencies applied out at the “Celtic Chief,” commencing with the tug “Intrepid” and the “Huki Huki,” deserve some credit for assisting in keeping that ship end on to the reef.

Mr. OLSON.—Now, if the Court please, I move to strike the last two statements on the ground that the witness is testifying to matters not within his own knowledge.

Mr. WARREN.—No objection to that.

(Testimony of J. F. Haglund.)

Mr. OLSON.—As I understand it, that statement is stricken?

The COURT.—Yes.

Mr. OLSON.—All the testimony with reference to the "Intrepid" and "Huki Huki"?

The COURT.—I so ordered.

A. Then I will confine my answer to the power that was exerted by the Inter-Island Steamship Company's steamers, the lightering of the cargo out of the ship by Miller Salvage Company as well as the Inter-Island Steamship Company, and the amount of strain, whatever that would be that was put on the Miller anchor. It was an additional help.

Q. Can you state more particularly the proportion which, in your judgment, was contributed by the Miller Salvage Company anchor?

Mr. WEAVER.—We object to that, if your Honor please, as calling for the opinion of the witness where it is shown that he has not sufficient knowledge of the facts on which to base the conclusion.

The COURT.—I will allow the question, it being understood that the intention is to elicit an answer respecting the degree and not the mathematical portion [3090—2259] of power exerted or what was rendered by the Miller Salvage Company, the Miller Salvage anchor and apparatus.

Mr. WARREN.—That is understood, your Honor.

Mr. WEAVER.—Of course, that's understood. We make the same objection to the question even as modified.

A. In my opinion and to my best judgment—

Mr. WARREN.—The objection is overruled?

The COURT.—Yes.

(Testimony of J. F. Haglund.)

A. In my opinion and to my best judgment, it would not be more than any of the Inter-Island steamers individually was exerting on the "Celtic Chief."

Q. I want to hand you a small photograph, Captain, and ask you if you can identify it.

(Mr. Warren hands witness a snapshot.)

A. Yes.

Q. Please state what it is.

A. It is a photograph I took myself of the mizzen-mast of the "Celtic Chief."

Q. At what part of the mast?

A. Right above the poop, the level with the forward part of the poop.

Mr. OLSON.—Before it is offered in evidence, I'd like to ask a question or two.

Q. Captain Haglund, when did you first *not* that mast, take any observation of that mast, examine it?

A. After the "Celtic Chief" was lying in at the Hackfeld wharf.

Q. That's the first time you examined the mast?

A. That is the first time I examined it particularly.

Q. That was after the "Celtic Chief" came off the reef? A. Yes.

Mr. WARREN.—Then I'll ask some more questions. Did you examine it at any time before she came off the reef? [3091—2260]

A. I couldn't examine the mast particularly because there was always a line around it in that particular spot.

Q. What line was around it?

A. During the time I was aboard the "Celtic Chief" there was a twelve-inch hemp rope, not a

(Testimony of J. F. Haglund.)

manilla hawser, hemp rope, around the mast and lead to the outside of the "Celtic Chief" quarter, to which the "Mauna Kea" or steamer "Helene's" line was attached.

Mr. WEAVER.—What do you mean by that particular spot?

A. That dent on the mast.

Mr. WARREN.—Make a cross on this photograph indicating what you mean by that particular spot.

(Witness marks on photograph.)

Q. Now, do you know whether or not, do you know what line was on that mast at this spot before the hemp hawser was there?

A. A twelve-inch manilla rope—

Mr. OLSON.—Now, I move to strike on the ground it is hearsay.

The COURT.—Motion granted.

Mr. WARREN.—You don't know yourself?

A. I did not see that, that was parted.

Q. Well then, I'll call another witness on this point, your Honor. Cross-examine.

Cross-examination on Behalf of Libellee.

Mr. OLSON.—Q. In testifying concerning your experience in salvage operations, you mentioned the "Chyso Maru," did you not, Captain? A. I did.

Q. The "Chyso Maru" used her engines, did she not, to a certain extent during the course of those operations in attempting to float the "Chyso Maru"? [3092—2261] A. She did at times.

Q. When you testified that the "Mauna Kea" had to leave on her regular schedule at twelve o'clock to carry mail, passengers, and freight, did you mean that twelve o'clock on Tuesday was the time on which



(Testimony of J. F. Haglund.)

she would regularly have left the Port of Honolulu if it had not been for the "Celtic Chief" operations?

A. I don't remember whether her schedule had been changed from twelve to ten at that time, but it was either twelve or ten in the forenoon.

Q. When you say she had to leave on her regular schedule to carry mail, passengers, and freight, you mean that was her regular schedule time on which to leave. When you speak of mail you don't speak of any knowledge of the mail contract? A. I do.

Q. Do you know the contents of the mail contract? Have you read it? A. Now?

Q. Do you know whether that contract is in existence? A. Not that contract.

Q. Did you know it was in existence at the time?

A. I did.

Q. Do you know the terms of the contract?

A. I know there is a penalty.

Q. Do you know there is a penalty?

A. I do, but I couldn't state it in court here unless—

Q. That's all I want to know. When did you first come out to the scene of the "Celtic Chief" operations on Tuesday? A. On Tuesday?

Q. Tuesday.

A. Shortly before seven o'clock in the morning.

Q. A little before seven o'clock?

A. A little before seven o'clock.

Q. How did you get out there? [3093—2262]

A. Went out on the steamer "Helene."

Q. Now, when you arrived there what did you do, personally?

(Testimony of J. F. Haglund.)

A. I observe everything that was done by the steamer "Helene."

Q. I'm asking you what you did.

A. I'm telling you what I did.

Q. All right, I'll put it in a way that you can understand then, Captain. When did you first arrive, the "Helene," after coming out to the scene of the "Celtic Chief" operations?

A. As near as I can remember, shortly before eight o'clock; to the minute I couldn't state.

Q. What did you do?

A. Went aboard the "Mikahala" first.

Q. You went aboard the "Mikahala"?

A. Yes.

Q. Shortly before eight o'clock, did you say?

A. Yes.

Q. And from the "Mikahala"? How long did you stay on the "Mikahala"?

A. I don't remember; just a few minutes.

Q. And then where did you go?

A. On board the "Celtic Chief."

Q. And how soon after that was it before you left the "Celtic Chief" again?

A. That I don't remember.

Q. Well, did you leave her again on Tuesday?

A. I couldn't possibly state that even.

Q. When did you next go aboard the "Helene"?

A. I don't remember the next time. I was aboard in the "Helene" during Wednesday evening.

Q. How long on Wednesday evening?

A. Oh, I may have been there anywhere from ten

(Testimony of J. F. Haglund.)

to twenty minutes, maybe. I am not positive.

Q. What were you doing on the "Helene" then?  
[3094—2263]

A. I was talking regarding the signals to be fired on the "Celtic Chief" when she was floated.

Q. Did you go aboard the "Helene" after that?  
Oh, with whom did you talk? A. Captain Nelson.

Q. Did you see Captain Nelson the moment you stepped on board. A. I did not.

Q. Where was he? A. On the lower bridge.

Q. Did you step up on the lower bridge?

A. I did.

Q. Did you talk to him from ten to fifteen minutes?

A. I went into his room.

Q. Did you ask him to go into his room?

A. I did.

Q. How long were you in his room?

A. I don't remember.

Q. Ten or fifteen minutes?

A. The biggest part of the time I was on the steamer.

Q. When you came out of his room what did you do?

A. I looked around, looked at the lines and then went back on the boat again.

Q. And that's all you did?

A. I don't know if that's all I did. I don't remember exactly what I might have done besides that.

Q. When you came aboard you went to the lower bridge and went into his room? A. Yes.

Q. And you were there the biggest part of the time?

(Testimony of J. F. Haglund.)

A. Yes.

Q. And when you left the captain you took a look at her lines? A. Yes.

Q. Where? A. At the stern.

Q. After having taken a look at the lines where did you go?

A. I had to go down on the lower deck for to get in the boat again.

Q. Having taken a look at the lines in the stern you went [3095—2264] down to the lower deck?

A. Lower deck where the "Helene's" towlines were fast.

Q. You went down to the low deck in order to see those lines? A. I did.

Q. And then you went to your own boat?

A. I did.

Q. And went to the "Celtic Chief"?

A. No, I did not.

Q. Where did you go then?

A. To the "Mikahala."

Q. And was that the last time you went on the "Helene" that night? A. Yes.

Q. And that was the first time you went on the "Helene" that night? A. That night, yes.

Q. Now, during Wednesday afternoon, were you on the "Helene"?

A. I couldn't tell, I don't remember.

Q. Were you on the "Helene" any time during the daytime?

A. I was aboard the "Helene" at some time, I went sometimes to get my meals, but what time of the day

(Testimony of J. F. Haglund.)

I am not prepared to state.

Q. That's where you took your meals?

A. Sometimes on board the "Mikahala," sometimes on the "Helene."

Q. At any time you went aboard to take your meals at the "Helene," what did you do? Simply take your meal and go away?

A. I looked at the strain on her towline and also her anchor chains.

Q. How many times, can you state you made such an observation? A. From the time I was there.

Q. And how many times?

A. That I couldn't state.

Q. Did you take your meals any place else except the "Helene" and the "Mikahala"?

A. That's the only two boats I had out there.  
[3096—2265]

Q. The "Likelike" wasn't there?

A. Not before Wednesday noon.

Q. Did you take any meals on the "Mikahala"?

A. I did.

Q. Do you know whether you took more of your meals on the "Mikahala" or the "Helene"?

A. I have already stated I don't remember that, the number of meals I took on the "Mikahala" and the number of meals I took on the "Helene."

Q. Were you on board the "Helene" for any other purpose than for taking your meals?

A. I went aboard for the purpose to look at her anchor chain.

Q. I want to know if you were on board at any other



(Testimony of J. F. Haglund.)

time for any other purpose?

A. I don't remember, Mr. Olson, whether I went on board the "Helene" at any other times but at meal times.

Q. Now, were you aboard the "Helene" after you left her shortly before eight on Tuesday morning, during Tuesday?

A. I don't remember whether I was.

Q. If, so, it was when you went aboard to take your meals? A. If I was it was at meal-time.

Q. Where did you take your breakfast that morning?

A. I took it aboard the "Helene" before I left her.

Q. And where was the "Helene" at the time you were eating breakfast?

A. She was moored outside the "Celtic Chief."

Q. Was that after you had arrived?

A. Yes, shortly.

Q. Had the "Mauna Kea" yet left?

A. May be half-past seven, somewheres around eight o'clock after we got out there. [3097—2266]

Q. Now, did you go aboard the "Helene" Tuesday night? A. I don't remember.

Q. Is that because you don't remember whether you were there to eat a meal there?

A. Our last meal was somewheres around five o'clock. I may have been aboard the "Helene."

Q. You may have been aboard to take your evening meal? A. I may have.

Q. But you were not aboard of her at any other time? A. That I can't remember.

Q. You don't, at present, remember. Were you

(Testimony of J. F. Haglund.)

aboard on Tuesday night at any other time than the possible time of going aboard to get your evening meal? A. I don't understand that question.

Q. As I understand, it's possible that you went aboard the "Helene" Tuesday night to get your supper? A. It's possible.

Q. Now, I want to know if you went aboard again later on Tuesday evening, after you had your supper, at any other time?

A. Not that I remember. I might have been there but I wouldn't say so.

Q. Where were you when the "Helene's" anchors were laid? A. On the bridge with the captain.

Q. Of the "Helene"? A. Yes.

Q. Where were you when the "Helene" finally hove in on her lines? A. On the bridge.

Q. You were still on the same place. By what time was it that the "Helene" had gotten into position and gotten her line taut as you have testified?

A. I am no able to state that correctly to the minute.

Q. Well, have it as near as you can state it?

A. I know she was moored and the line taut before 8 o'clock. [3098—2267]

Q. That is before you left her?

A. Before I left her.

Q. And when you went over to the "Mikahala"?

A. Yes.

Q. Now, do you remember any particular after that when you noticed that the "Helene's" anchor chain were hove any more than they were up to the time

(Testimony of J. F. Haglund.)

that you left the "Helene" on Tuesday morning, that you observed?     A. After that?

Q. After that.     A. I couldn't state the time.

Q. Well, you don't remember, do you?

A. I do not remember.

Q. You don't remember having seen them heaving in on those anchor chains thereafter?

A. Yes, I've seen it.

Q. Let us have a statement—

A. When I was aboard for my meals. I have already testified that I observed the towlines as well as the chains and they put steam on the winch to see if there was any slack.

Q. Did you go down there to see if there—

Mr. WARREN.—I object to that; the witness was not yet through.

Q. Have you finished your previous answer?

A. The way you go at me I don't know what I did answer.

Q. Let's have as much more of your answer as you choose to give to my previous question, if you went over to see if they could get any more slack. Have you anything further to say in addition to that answer?     A. No.

(Question read.)

A. Down where. [3099—2268]

Q. Where the engine was being operated?

A. I saw that from the bridge.

Q. Did you direct them to heave in on the anchor chain at any time that you were aboard for the purpose of taking your meals?

(Testimony of J. F. Haglund.)

A. I asked Captain Nelson to see if there was any more of that chain to be had.

Q. When did you do that?

A. That was I already stated at the time I was aboard for my meals.

Q. Did you do it each time?

A. I don't remember how many times I was aboard the "Helene."

Q. Did you do it each time that you did go aboard?

A. I did.

Q. Now then, will you state how much chain was gotten in during those times?

A. At the time when I observe it?

Q. Yes.

A. Maybe only a link, maybe less than half a link.

Q. Is a link at a time the most?

A. That's the most, the very most.

Q. How long is a link?

A. That inch and a half chain, I don't remember exactly, but so near as I remember about seven inches.

Q. Now Captain, you know, do you not, that there was a swell running at all times the "Helene" was out there?     A. That I do, yes.

Q. And that would have some bearing upon the question of whether or not more chain could be taken in by the winch, would it not?

A. To a certain extent, yes.

Q. How much do you suppose the "Helene" would heave under one of those larger swells that *you spoken* of? [3100—2269]

A. How much she would heave?

(Testimony of J. F. Haglund.)

Q. Yes. Raise the ship. How much would she heave? How much would she be lifted by the swell?

A. It is pretty hard for me to state the number of inches and feet.

Q. I want the best judgment that you have on the subject, if you can't give us exactly, give it to us approximately?

A. Maybe anywhere from a foot to five, six, or seven feet, or eight feet; maybe more than some of the heavier swells.

Q. So then, when you testified on direct that whenever there was any slack the "Helene" would heave in on her anchor chains little by little and get in a little at a time, you were then referring to the times that you were aboard and *actual* observed—

A. Yes.

Q. The anchor chain being heaved in upon?

A. I wouldn't testify to anything that I didn't see.

Q. You don't know what day that was?

A. They have orders from me—

Q. But do you know of your own knowledge?

A. I never asked them how many fathoms they got in.

Q. And you don't know?

A. I don't know when I wasn't there, no.

Q. I'll hand to you, Captain, a piece of wire line which is marked Claimants' Exhibit, Henry B., and ask you to state what in your judgment is the size of that wire line?

Mr. WARREN.—I don't understand that this is yet in evidence, your Honor. I'm going to object to this being referred to unless it appears what it is.



(Testimony of J. F. Haglund.)

Mr. OLSON.—I offer to show subsequent in my case that this particular line is a part of one of the wire lines [3101—2270] used by the “Arcona” in her pulling operations. Upon that offer to connect I now ask the witness if he will state what in his opinion is the size of that wire line.

Mr. WARREN.—Same objection, your Honor. I think it’s not proper.

The COURT.—I allow that question subject to later proof being offered that this is the “Arcona” line.

Q. Will you state what in your opinion is the size of this wire line?

A. A sailor will call it a four-inch wire, but in a ship chandler’s store, it would be called according to its diameter.

Q. What is its diameter?

A. An inch and a quarter.

Mr. OLSON.—I offer this to be marked for identification.

Mr. WARREN.—I object to that, your Honor. It is not proper to offer this thing in evidence at this time for any purpose.

(Wire rope received and marked Libellee’s Exhibit 7 for identification.)

Q. Now do you mean— That’s allowed, is it, your Honor?

The COURT.—Yes.

Mr. WARREN.—I want that in the record, that counsel must include in his offer to prove which of the two lines this particular piece is a part of.

Mr. OLSON.—I’ll do that also.

(Testimony of J. F. Haglund.)

Now, then, Captain Haglund, are you prepared to state that the wires which were used in the towing operations by the "Arcona,"—I won't call them towing operations as you don't call them such.

A. That's the wrong name for it.

Q. Now just a second. Are you prepared to say, Captain Haglund, that neither of the lines which the "Arcona" had [3102—2271] attached to the "Celtic Chief" was as large as that? A. I do.

Recess.

Mr. WARREN.—I'd like with the consent of counsel and the Court to ask one or two more direct questions.

Mr. OLSON.—With reference to the "Mauna Kea's" rope.

Mr. WEAVER.—We consent on behalf of the Miller Salvage Co.

Mr. WARREN.—Since the other day, Captain, have you been able to get a sample of new twelve-inch rope of the kind used by the "Mauna Kea"; is this the sample, Captain? (Hands witness piece of rope.) How does this sample with the line of the "Mauna Kea" when new?

A. That is about as near as you can possibly get it.

Mr. WARREN.—I'd like to offer this in evidence, your Honor.

Mr. OLSON.—I have no objection.

Q. A twelve-inch manilla hawser, is it, Captain?

(Rope received, marked Libellant's Exhibit "P.")

Mr. WARREN.—That's all.

Mr. OLSON.—Are you still prepared to say, Captain Haglund, that this piece of wire rope that I

(Testimony of J. F. Haglund.)

showed you could be a part of one of the lines used by the "Arcona"?

A. It may have been a part of it.

Q. It may have been a part of the one that belongs to the "Celtic Chief," isn't that so?

A. That may be a fact. Whatever it is—

Q. Never mind that's all I want, Captain Haglund, on that point. Was the "Arcona" line lying forward or back of the position of the "Helene"?

A. Slightly forward.

Q. Slightly forward. When you say slightly, how many fathoms would you say, or feet. *I now* speaking of the [3103—2272] stern of the "Arcona" with respect to the stern of the "Helene"?

A. Maybe ten, maybe fifteen, feet. I couldn't say exactly to the foot.

Q. That is your best judgment?

A. To my best judgment.

Q. Hardly more than fifteen feet?

A. Not more than fifteen feet.

Q. Hardly more than fifteen feet?

A. Not more than fifteen feet.

Q. If you testified on direct that it was twenty-five feet ahead of the "Helene," then that is not correct? A. If I did, that's too much.

Q. Then you were not stating accurately the distance from the "Arcona" and the "Celtic Chief" as compared to that of the "Helene," as you testified on direct?

A. To my best judgment, it would be at the least fifteen feet ahead.

Q. Why did you say twenty-five feet on direct?

(Testimony of J. F. Haglund.)

A. I don't know that I said it, but if I did say so, it's a little too much.

Q. When you were aboard the "Arcona," did you examine the way in which the lines were made fast on board of the "Arcona"? A. I did.

Q. Where was the line which went to the starboard side of the "Celtic Chief" attached to the "Arcona"?

A. To her port quarter bitts.

Q. Her port quarter bitts?

A. On the afterdeck.

Q. And where was the line attached which went to the port side of the "Celtic Chief"?

A. Attached to the "Arcona's" starboard quarter bitts, [3104—2273] right opposite.

Q. When was it that you ascertained that?

A. On Wednesday evening.

Q. What time were you aboard?

A. I couldn't approximately state; somewheres around between nine o'clock.

Q. It wasn't dark, was it not? It was already dark, wasn't it?

A. Oh, yes, it was after dark.

Q. Now, just how were those lines attached to the bitts? A. Turned around the bitts.

Q. Only around it?

A. Only around the bitts, yes.

Q. About how far forward of the stern of the "Arcona" are those bitts on both sides?

A. That I couldn't possibly state.

Q. Can't you state approximately? A. No.

Q. You don't know whether it is a hundred and fifty feet or fifty feet?

A. It is less than fifty feet.

(Testimony of J. F. Haglund.)

Q. That's what I want to find out?

A. Less than fifty feet.

Q. Less than twenty-five feet?

A. Of course, I couldn't state that correctly.

Q. Somewheres between twenty-five and fifty feet?

A. Somewheres around there.

Q. About how much of the wire do you think was used in being wound up?

Mr. WARREN.—Which wire?

Q. We'll take the wire going to the starboard side of the "Celtic Chief"?

A. On the "Arcona's" bitts, you're referring to.  
[3105—2274]

Q. Yes. How much of the wire was taken up there?

A. I don't remember the turns around the bitt.

Q. Did you observe whether the whole of the wire was used or whether there was some part of the wire loose?

A. There was some wire on the "Arcona."

Q. There was some wire left on the "Arcona"?

A. Left on the "Arcona."

Q. And was the same true of the other side?

A. Yes.

Q. Ten or fifteen feet? A. That I don't know.

Q. Well, approximately. You examined those wires?

A. No, I didn't examine them.

Q. You saw there was some loose end?

A. I saw there was some loose end. Whether it was five fathoms or a hundred and five—

Q. It looked like it might be five or six fathoms?

A. I couldn't state how much there was. I know how much it would take to make it fast around the bitts, if I had counted the turns.



(Testimony of J. F. Haglund.)

Q. When you say it might have been twenty-five fathoms or more, do you mean to say that it was your impression it was quite a little bit?

A. I couldn't tell you whether it was small or large.

Q. Do you remember there was any?

A. That I don't know either.

Q. Why did you say there was a loose end?

A. I didn't see it if there was.

Q. Why did you testify about there being a loose end there, if you didn't see it?

A. There must be a loose end somewhere.

Q. Now, which wire was it that the "Arcona" supplied, the wire that went to the starboard, or the one that went [3106—2275] to the port side?

A. The "Arcona" supplied both of them.

Q. Don't you know that one of the "Celtic Chief" wires was in use?

A. Not on board of the "Arcona."

Q. Don't you know that one of those wires was furnished by the "Arcona," one of the wires that went to the "Celtic Chief"? I'm asking about the only one, the whole one that was supplied by the "Arcona"? A. The whole wire?

Q. Yes.

A. That was the one leading from the "Arcona's" port quarter to the starboard side of the "Celtic Chief," made fast amidships.

Q. Was that between a hundred and twenty and twenty-five fathom line?

A. I don't know. Wires come in all lengths according to the order.

Q. You have no opinion then, how long they were?

(Testimony of J. F. Haglund.)

A. I don't know.

Q. Now, was the "Arcona" astern or forward of the position of the Mikahala"?

A. Forward of the "Mikahala."

Q. About how much? I'm speaking now of the stern of the "Arcona" with reference of the stern of the "Mikahala"?

A. The stern of the "Arcona" was approximately abreast of the bow of the "Mikahala," if anything a little forward.

Q. And what was the length of the "Mikahala"?

A. The "Mikahala" was a hundred and forty-seven feet, if I remember correctly.

Q. This sample of the— What were you going to say, Captain?

A. I think that's right, the length of the "Mikahala" is [3107—2276] correct.

Q. This sample of the "Mauna Kea's" line that you produced and which been introduced in evidence as an exhibit, and is marked Libellant's Exhibit 8, where did you get that sample?

A. I got that out the Inter-Island warehouse from the line that is coiled up there.

Q. Are you the custodian of the wares in that warehouse? A. I am.

Q. Do you know whether or not that piece from which that was cut by you a day or two ago has been in that warehouse ever since the "Celtic Chief" operation? A. Yes.

Q. It has. What was the length of that piece, I'm speaking now of the whole rope from which this sample was taken?

A. The length of it now or when it came in there?

(Testimony of J. F. Haglund.)

Q. When it came into the warehouse.

A. Well, approximately as near as I can remember about six hundred feet.

Q. Now, what the length of the piece from which you took this sample?

A. About three and thirty, I think.

Q. What was done with the rest of it?

A. It's down there.

Q. Now—Oh, that's a fact, is it?

A. That's been used for mooring lines.

Q. By the Inter-Island Steam Navigation Co.?

A. By the "Mauna Kea" and the "Claudine."

Q. What's become of the "Mikahala's" line?

A. I don't know.

Q. What's become of the "Likelike's" line?

A. I don't know, either. [3108—2277]

Q. What's become of the "Helene's" line?

A. That's it. That's the one of the "Helene," the same one that was used by the "Mauna Kea" and the bridle of seven-inch was attached to that from the "Helene," two parts.

Q. Now, do you remember what kind of a line the "Intrepid" was towing with?

A. Yes, I remember.

Q. What kind of a line was it?

A. Manilla hawser.

Q. And the size?

A. I should judge about ten inches, as near as I can.

Q. About a ten-inch manilla hawser?

A. With a piece of wire spliced to the end of it with an eye in it.

(Testimony of J. F. Haglund.)

Q. And that wire was attached at the "Celtic Chief" end, was it not? A. Yes.

Q. What was the size of that wire?

A. I should judge about an inch in diameter so near as I can remember.

Q. And what was the length? Rather, I should say, what was the distance between the stern of the "Celtic Chief" and the "Intrepid," while the "Intrepid" was attached?

A. A little bit less than the "Mikahala's."

Q. And that would be how many feet about?

A. May be four hundred and fifty; something like that.

Q. About four hundred and fifty feet?

A. About that; less than five hundred any way.

Q. You didn't observe the "Intrepid," did you, on Monday? A. I did.

Q. What? A. I did.

Q. When?

A. I observed her in the morning after the fog; all the mist cleared away [3109—2278] and I also observed her on Monday evening when I went out there on the launch.

Q. Your observation of her in the morning was from where? A. That was in, from the wharf.

Q. Now, what was the condition of that manilla hawser with reference to its being taut on Tuesday and Wednesday morning?

A. Well, it was about as taut as the "Intrepid" could make it by towing.

Q. I don't know how taut the "Intrepid" could make it by towing and so I want to find out.

(Testimony of J. F. Haglund.)

A. There was more or less sag in it, of course.

Q. What?

A. There is more or less sag to it at times. It would touch the water in a bight.

Q. It would touch the water?

A. Might touch the water in a particular spot at all times.

Q. You are not prepared to say that the "Intrepid," at any time she was pulling, kept that line out of the water are you?

A. I wouldn't like to say so.

Q. Do you know the horse-power of the "Intrepid," approximately?

A. No, I've forgotten now. I have known, but I don't remember.

Q. You know that she was not using an anchor, do you not?

A. Not using an anchor, no; not to my knowledge.

Q. Did you examine the sea-bottom around the "Celtic Chief" in any way?

A. I did not, only what I saw about the mixtures of white or coral mixtures floating up along the west side of the "Celtic Chief." That's all the examination I made.

Q. You know, do you not, Captain Haglund, that coral sometimes is comparatively soft, do you not, as compared [3110—2279] with rock? A. I do.

Q. As a matter of fact it can be cut afloat rapidly, can it not, and is sometimes cut out in chunks with knives?

A. Yes, I've see that soft coral, but I don't think the coral was as soft as that because the discolora-



(Testimony of J. F. Haglund.)

tion of the water was very slight.

Q. You think that's a reason for assuming that that coral was not soft, because the discoloration was not slight? A. Yes, sir.

Q. Who was with you in that small boat when you went over to the "Arcona" on Wednesday night and rode around to, around her stem and took note of her anchor-chains?

A. Just the boat's crew of natives, Hawaiians.

Q. I don't know, but think that I'd like to get the names of all of them?

A. I couldn't possibly give you that.

Q. Who were they? Were they from the—

A. I couldn't possibly tell you now whether it was the crew of the "Helene" or the "Mikahala."

Q. Do you know whether it was one of the two?

A. Oh, certainly it was one of two.

Q. And the only persons who observed those anchor-chains, as far as you know, at the time that you said you saw them, was yourself and these members of the boat crew whose names you cannot now give, is that right? A. That's right.

Q. Is there any way in which you could give me the names of any one of those men? Refresh your memory on that point.

A. I couldn't give you, from my memory because I don't know who they were.

Q. Is there any way in which you could obtain their [3111—2280] names? A. I might.

Q. I'll request you so to do.

A. I can't say that I can or not.

Q. I'll ask you that you attempt to do so. I'd like

(Testimony of J. F. Haglund.)

to have those names. A. I will if I can.

Q. Where were you during the time that the "Celtic Chief" was perceptibly moving. I mean when it was observable from the ship itself from the motion of the ship itself, that it was coming off?

A. I was by the "Helene's" line, towline.

Q. And where was that attached?

A. Attached to the mizzenmast.

Q. And you were at the mizzenmast then?

A. Closer aft of it, yes.

Q. That's on the main deck, is it not? A. No.

Q. Where? A. Quarter deck, on the poop.

Q. On the poop itself. Were you there from that time on until the "Celtic Chief" came off?

A. From what time?

Q. From the time that she began to move perceptibly until the "Celtic Chief" came off?

A. Yes, I didn't go down the main deck after that.

Q. How near is that mast to the break of the poop?

A. Maybe just a few feet; I don't know, exactly as I measured it. Maybe two or three feet, maybe little over.

Q. It was at least two feet from the break of the poop?

A. At least two feet from the break of the poop.

Q. And how far from the foremast, part of the stern? [3112—2281]

A. Fifty-five or sixty feet, I should judge.

Q. Fifty-five or sixty feet? A. About that.

Q. Now, what were you doing there? What was your purpose in standing there alongside the "Helene's" line?

(Testimony of J. F. Haglund.)

A. In readiness to cut, have them cut.

Q. Where was it cut as a matter of fact when it was cut?

A. It was cut about, so near as I can tell, about a third of the way from the mizzenmast to the stern of the "Celtic Chief." That's approximately.

Q. Do you mean a third of the way from the mizzenmast? A. From the mizzenmast.

Q. So that it was about two-thirds of that total distance from the stern? A. About.

Q. And you directed that operation, did you?

A. Yes, I directed it and I also had an axe in my own hand.

Q. And did some of the chopping?

A. And did some of the chopping.

Q. It was your purpose to avoid any trouble and that is why you were so careful to stand by it to see?

A. Exactly.

Q. How long was it that the ship was moving this way before she was afloat that you were standing there looking at that line?

A. How long she moved?

Q. How long was it that she had been moving perceptibly? A. I never timed.

Q. Well approximately?

A. Maybe fully a minute, maybe less than a minute; maybe more than a minute.

Q. That was the length of time that you were standing there?

A. No, until they started to cut.

Q. That isn't the point. You, as a matter of fact, went by that line and stood by in order to cut it as

(Testimony of J. F. Haglund.)

soon as you became aware that the "Celtic Chief" was moving? [3113—2282] A. Yes.

Q. How long was it from the time it began to move perceptibly until it was afloat for the first time?

A. Well, she commenced to move at first, although it was very little, about a quarter to twelve, if I remember correctly.

Q. Quarter of what?

A. About a quarter of twelve, but then she stopped again.

Q. How soon did she begin again?

A. That I don't know exactly. That may have been somewhere around twelve o'clock and may have been after twelve. If I remember correctly, it was after twelve.

Q. Ten or fifteen minutes before she actually came off? A. Maybe about that; maybe a little earlier.

Q. When was it that you took your position with the axe, with your axe there, with reference to the first movement? She stopped, as you say, and she began at a quarter to twelve. Was it after that? Before or after it stopped? A. After the first.

Q. It was afterwards? A. Yes.

Q. Would you say about twelve o'clock, about the time it began to move again?

A. I think it was after twelve.

Q. Well, about how long after?

A. I can't possibly state.

Q. You know it was about fifteen or twenty minutes later, or after, the "Celtic Chief" came afloat?

A. After she was afloat, I looked at my watch.

Q. Do you not know how long you had been stand-

(Testimony of J. F. Haglund.)

ing alongside that rope?

A. I wasn't standing alongside that rope. [3114—2283]

Q. Were you there ready with your axe to see that it was cut?

A. I had men stationed there, maybe fifteen minutes, maybe twenty minutes. I don't remember that length of time.

Q. What were you doing?

A. Observing different things around.

Q. You what?

A. I was observing different things around.

Q. On the poop all the time?

A. On the poop all the time to twelve o'clock.

Q. How about from fifteen minutes to twelve?

A. That I don't remember.

Q. You might have been on the poop that time also? A. I won't say so.

Q. Where was that winch operated that your cargo was being loaded by?

A. Forward of the main hatch.

Q. And the main hatch is where with reference to the poop deck? A. It is forward of the main mast.

Q. Pardon me? A. Forward of the main mast.

Q. It may be, in this case may be approximately sixty feet from the mizzenmast? Sixty feet from the mizzenmast? A. So near as I can judge, yes.

Q. Where was the donkey-engine with reference to the hatch itself; on the side toward the poop deck or on the other side? A. On the forward side.

Q. It was forward?

A. Forward of the main hatch.



(Testimony of J. F. Haglund.)

Q. How wide is the main hatch?

A. I didn't measure it. [3115—2284]

Q. Ten or twelve feet?

A. About that I should judge. I didn't measure it, it may be about that size I should think.

Q. That's the ship's donkey which you're speaking of, isn't it? A. Yes, that's the ship's donkey.

Q. That was on the main deck, was it?

A. Yes, sir.

Q. Now, where is the capstan which was used?

A. That is on the forecastle.

Q. That's up forward, isn't it? A. Yes, sir.

Q. Where was the fall run to that was used, attached to the second luff tackle, when the winch was being used as the motive force?

A. It was run up to that capstan.

Q. Run to the capstan? A. Yes.

Q. While the winch was being used for pulling on that tackle?

A. I understood you to say when the winch was used for pulling on the cargo.

Q. No, while it was used as a motive force for pulling on those tackles. A. Line to the winch?

Q. The winch, yes?

A. On the starboard side of the "Celtic Chief."

Q. Now, that winch was not used, was it after half-past eleven o'clock by the Miller Salvage Company?

A. I couldn't possibly state how it was used up to that time.

Q. Up to half-past eleven?

A. Between eleven and half-past eleven that I'm positive; after that I couldn't state.

(Testimony of J. F. Haglund.)

Q. Now, up to that time, up to half-past eleven, the ship hadn't begun to move, had it? [3116—2285]

A. Not so far as I know.

Q. When was it that you saw this rapid taking in of the line that was attached to the tackles, by the winch?

A. It was between eleven and half-past eleven.

Q. You saw that line being taken in very rapidly by the winch?

A. Not so very rapidly, but more rapidly than when we were hoisting the cargo.

Q. How did it happen that the winch was capable of taking in that line so rapidly at that time if the ship wasn't moving?

A. Because the weight on the fall was less than the weight on them slingload of fertilizer.

Q. That is, when they let it loose from the capstan, the tackles loosened up somewhat, did they, and the fall was then led to the winch and that slack was taken in?

A. I don't know anything about that.

Q. That may have been the case, may it not?

A. It might have been for all I know.

Q. So that as a matter of fact, as far as you know, there was no special resistance while you saw that luff from the fall?

A. Not a great deal. Some resistance; not so great as it was when we were hoisting them slingloads of fertilizer.

Q. Did they get that purchase taut then with that winch? A. Not when I saw it.

Q. But you didn't see it after half-past eleven?

(Testimony of J. F. Haglund.)

A. No, I won't state after half-past eleven.

Q. After half-past eleven there may have been a tremendous power put upon the Miller Salvage tackles so far as you know?

A. It takes longer time than that, Mr. Olson, to put any power on a tackle after this was taken in; that is a treble purchase that [3117—2286] was rigged there.

Q. But after the slack is taken in, Captain Haglund, it's possible then, is it not, to exert an actual force, as much as the motive power is capable of exerting? A. Yes.

Q. Did you go up on the poop at half-past eleven o'clock? A. Oh, I didn't time myself exactly.

Q. Was it about that time?

A. I may have been down on the main deck after that time, but I couldn't possibly state to the minute.

Q. I'm not asking you to state to the minute, Captain. I'm asking you to tell as approximately as you can. A. I have, so near as I possibly can.

Q. About half-past eleven o'clock?

A. Before I only said that I didn't go down on the main deck after that because I'm pretty sure I was down by the "Mikahala's" and the "Helene's" lines.

Q. Where was Pilot Macaulay at the time that you went up on the poop?

A. He was up on the poop deck.

Q. What was he doing?

A. I don't know he was doing anything.

Q. Was he there during the balance of the time you were on the poop deck? A. He was.

Q. Where was Captain Henry?

(Testimony of J. F. Haglund.)

A. I don't know.

Q. Have no idea? Didn't see him?

A. I have an idea where he was, but I didn't see him. He was aboard the ship, I know.

Q. But you didn't see him in evidence?

A. Not at any particular time, no.

Q. Where was Captain Schroeder, the commander of the "Arcona"?

A. He was away aft on the [3118—2287] star-board quarter of the "Celtic Chief." Right aft. I didn't see him, before he came running up, maybe to get in his boat.

Q. Where was the executive officer of the "Arcona"?

A. The executive was standing right by the signals there, close by where he had his signal man stationed.

Q. How near was that to you?

A. Just a few feet.

Q. How long did he stay there?

A. Well, he was on the quarter deck until the "Arcona's" lines was let go.

Q. Did you hear Pilot Macaulay have any words at all with the executive officer of the "Arcona"?

A. I didn't.

Q. Didn't hear any conversation?

A. I may have heard something, but not near enough to hear what he was talking about.

Q. How did you, how were you first able to tell that the "Celtic Chief" was moving at eleven-forty-five P. M. of Wednesday night?

A. By bearing of lights on shore.

Q. Then you couldn't feel the motion?

(Testimony of J. F. Haglund.)

A. Oh, you can feel the motion, but then—you mean motions on the ship before she came off?

Q. I want to know if you could feel the motion of her moving seaward?

A. Not at a quarter to eleven.

Q. When did you first begin to note a seaward motion of the "Celtic Chief" by the feel?

A. That was after twelve o'clock.

Q. After twelve? A. After twelve.

Q. How long did it take for her to come afloat after that?

A. From there? Well, just slowly, maybe a minute, maybe a little more. [3119—2288]

Q. But you never felt her movement at all up to that time, move seaward? There was no apparent seaward motion of the "Celtic Chief" up to that time?

A. Not that you could feel. You could feel her grinding and thumping and rolling considerable, but if you hadn't had any bearing you couldn't possibly know whether she was going astern or not.

Q. What were these bearings that you had ashore?

A. Well, there was lights. I couldn't possibly state which light it *were*. I know the nearest light of my bearing light was a buoy in the channel.

Q. How far away from the "Celtic Chief," approximately? Maybe half a mile?

A. I don't know exactly the distance, but approximately that.

Q. And the other range light that you used?

A. It was over towards Kaimuki way.

Q. That would be a good many miles away, wouldn't it?



(Testimony of J. F. Haglund.)

A. Would be probably four or five miles away.

Q. Was that on shore? A. On shore.

Q. Now, standing on the "Celtic Chief" as you were and using one of the buoy light of the channel as one of your range lights and a light ashore at Kaimuki—

A. I also had the lighthouse and a light in shore.

Q. Well, now, that was a different range, wasn't it?

A. That was a different range.

Q. Referring to your first range, the one that you spoke of first, the buoy light in the channel and the light at Kaimuki, how were you able, standing on the "Celtic Chief," to use those two lights as ranges, if the light at Kaimuki was necessarily considerably higher, above sea-level, I mean?

A. Above sea-level, yes, but I wouldn't be so very much on account of being there near to the buoy; that buoy is probably ten or twelve feet, maybe more, above sea-level. [3120—2289]

Q. And you were about twenty-one feet above sea-level?

A. On the quarter deck, I was, but not on the main deck.

Q. You were standing on the poop deck taking these observations, at a quarter to twelve?

A. I may have took them from the main deck at quarter to twelve.

Q. How high is the main deck above the sea-level?

A. Six or seven feet lower than the poop deck, approximately.

Q. And you're over five feet tall, are you not, Captain; five feet, six or seven? A. Five feet, seven.

(Testimony of J. F. Haglund.)

Q. So you were looking at a level seventeen feet above sea-level, weren't you, standing on the main deck?     A. Yes.

Q. Do you mean to tell me in order to see that buoy light you wouldn't—

A. I'm not positive it was Kaimuki on the heights. It might have been Waikiki.

Q. You know it is miles away?

A. I don't know, it's not far away.

Q. You know it is several miles to Waikiki from the point that you were looking from?

A. There is lights all along from Waikiki right in, right near the beach, back of the beach.

Q. Now, which of the range lights was it that you used when you determined, or were able to see that the "Celtic Chief" had moved at quarter to twelve?

A. I could tell by three of them.

Q. And you did, did you?

A. I did as near as I can remember.

Q. Now, where was the lighthouse that you used?  
[3121—2290]

A. Just a short distance further away from the buoy.

Q. Little over half a mile?

A. Little over half a mile.

Q. How high is that lighthouse?

A. I don't remember.

Q. You know approximately, don't you?     You've seen it a good many times?     A. Yes.

Q. Both daylight and at night?

A. I've seen it often enough.

Q. How high was it, approximately?

(Testimony of J. F. Haglund.)

A. About thirty feet.

Q. What was the second light you had as a range?

A. It was in shore.

Q. It was on the shore was it? A. On the shore.

Q. Where was that, at Waikiki or Kaimuki?

A. It was farther in town.

Q. Nearer to town? A. Nearer to town.

Q. Several miles away? A. I couldn't tell you.

Q. Well, it would be more than a mile away wouldn't it? You know it was more than a mile?

A. I think it was more than a mile, but how much more I wouldn't state.

Q. You are pretty sure it was miles from the other light to where you were?

A. I don't know how far in shore.

Q. You are sure it was at least two or three miles?

A. I don't think so.

Q. How far do you think it was?

A. It was only little further, half a mile to the lighthouse. I know the lighthouse ain't two miles [3122—2291] in shore.

Q. Where is it?

A. Just in the harbor. I don't know that in feet.

Q. We're talking about miles, not feet.

A. This harbor is not a mile wide.

Q. Have you no idea?

A. Well, I've got an idea, yes.

Q. Let's have your best idea, a mile and a half or two miles, two and a half miles, or a mile?

A. It may be little over a thousand feet.

Q. From the lighthouse to the shore?

A. To the shore.

(Testimony of J. F. Haglund.)

Q. Less than a quarter of a mile?

A. Less than a quarter of a mile; about a sixth of a mile.

Q. Now, then, that light that you used was considerably farther in shore, wasn't it?      A. Yes.

Q. And by that you were able to determine that the "Celtic Chief" was moving, although it was so imperceptible from the standpoint of feeling that you couldn't feel it at all?

A. You couldn't feel it at all. I couldn't make sure she was moving seaward unless I had something to determine that by.

Q. When the "Celtic Chief" came off, I understood you to say on direct examination, that she came within thirty or forty feet of the "Celtic Chief," according to your observation?

A. So near as I can judge.

Q. Of the "Arcona," I mean?

A. That's my best judgment.

Q. You were standing on the poop deck at that time, weren't you?      A. I was.

Q. Do you mean on the side of her or astern or, I mean, [3123—2292] yes, astern of the "Arcona"?

A. Yes, astern of her.

Q. So that if she had kept going in that direction for thirty or forty feet more and the "Arcona" had not moved, she would have run into the "Arcona"?

A. I won't say that.

Q. Well, if she was that much astern of the "Arcona"—

A. Not exactly astern, on her port quarter.

Q. Was—there never was any danger then?

(Testimony of J. F. Haglund.)

There never was any close escape of the "Arcona"?

A. If anything had happened to the "Mikahala's" hawsers there would have been danger.

Q. There was no likelihood that the "Mikahala's" line would break after the "Celtic Chief" was afloat if it didn't break before?

A. That I couldn't state.

Q. It was in pretty good condition?

A. No, the "Mikahala" may have jumped on her.

Q. Would it have been good seamanship?

A. No, it wouldn't be good seamanship, but the captain of the ship wasn't handling the engines, and you can't tell exactly what an engineer may do in a rush of that sort where the "Mikahala" is swinging over to port.

Q. When the "Celtic Chief" was brought to her anchorage by the "Likelike," did she drop her anchors? A. Yes.

Q. She did that? A. Yes.

Q. And was that a good anchorage that she was brought to?

A. Ordinary anchorage outside the harbor.

Q. As a matter of fact, it is the sort of anchorage that a ship would anchor in without any hesitancy and wait through the night until morning for a tug, to come [3124—2293] into the harbor if it happened to be convenient to do that? A. Yes.

Q. So that, as a matter of fact, Captain, there was no danger to the "Celtic Chief" after she had reached that anchorage, was there? She was then safe as an ordinary boat would be, anchored in that place?

A. So far as I know, yes.

Q. So that the standing by of the Inter-Island ves-



(Testimony of J. F. Haglund.)

sels after she was anchored until the next morning, was not a necessity or even a matter that was particularly advisable?

A. Yes, I think it was advisable. I wouldn't say it was an absolute necessity.

Q. Why do you think it was advisable?

A. Because, on my direct I stated that the wind was from the southward and it looked very thick and misty and no one could tell whether this wind was going to increase or not. That's why I kept the two boats lying out there.

Q. You don't ordinarily regard a vessel as requiring assistance such as standing by when it is out there in the anchorage?

A. Just as much so as the "Celtic Chief."

Q. The Inter-Island vessels wouldn't stop to give assistance of that character to a ship if the ship had not been ashore previous to that time, would it?

A. If we was required to do so.

Q. They wouldn't regard that ship in danger and requiring their assistance, would they, voluntarily?

A. No, I won't say that. We had the two boats out there and, being night, there was really nothing gained for the Inter-Island to go into the harbor. That's one reason. [3125—2294]

Q. It really doesn't make any difference?

A. And the other reason is that, as I already stated, to stay by the ship if anything had occurred.

Q. As a matter of fact, was safe when she was brought to that anchorage?

A. I consider it so, yes.

Q. If lines, a line or lines had been made fast to

(Testimony of J. F. Haglund.)

the "Celtic Chief's" bow in an attempt to pull her off in that way, Captain Haglund, wouldn't it have been possible for the "Intrepid" or some other vessel to have kept a line on her stern which would have at least prevented her from going broadside on the reef?

A. That all depends on which of the two lines would be more effective on the ship. If the line over forward had more power on it, it, naturally enough, would slue the ship around.

Q. Wouldn't there also have been the tendency to give her some sternway?

A. Provided you were pulling her stern to, yes, but that, certainly, wasn't being practical.

Q. That is your opinion?

A. That's my opinion.

Q. And the opinion of the "Arcona" officers would have been just the opposite? A. Yes.

Q. And you regard your opinion as the better of the two? A. I do in this particular case, yes.

Q. Was there any conversation with anyone on board the "Mokolii" when this heaving line was thrown on board the "Celtic Chief" and from that time on until that heaving line was thrown overboard again?

A. I never heard any conversation after Captain Scott of the "Mokolii" hove a line and asked the "Celtic Chief" to make it fast.

Q. That's all the conversation you ever heard?  
[3126—2295]

A. I never heard anything outside of that.

Q. Where were you? A. On the quarter.

Q. Where were Captain Macaulay and Captain Henry? A. Right near where I was standing.

(Testimony of J. F. Haglund.)

Q. And if they had said anything you would have heard it, wouldn't you?     A. I think I could, yes.

Q. You heard Captain Miller on the morning of Wednesday when he came aboard in regard to his anchor, talking or speaking in regard to his anchor, didn't you?

A. Yes, I was down on the main deck at the time he came aboard and spoke to Captain Henry. Captain Macaulay was also there.

Q. Will you state what that conversation was between Captain Henry and Captain Miller as nearly as you can remember?

A. It was regarding to laying a line from his anchor to the "Celtic Chief" and Captain Henry objected.

Q. What did he say?

A. He said, "I won't have no line from your anchor in the direction you've got it because it would be of no use."

Q. What did Captain Miller say to that?

A. He asked Captain Henry then if he would take a line from it if he would put it in a different position.

Q. What did Captain Henry say?

A. He said, "If you put it astern near to that poop, I certainly will."

Q. What did Captain Miller say to that?

A. He went about and shifted that anchor.

Q. Were there any angry words between them in any way?

A. I don't know. Yes, there was. Well, there was a little about Captain Miller had promised to

(Testimony of J. F. Haglund.)

come out there on Tuesday but he failed in doing. That's all. [3127—2296]

Q. What did Captain Henry say about that?

A. Well, I don't remember what he answered him exactly. Captain Miller had some excuse for not coming out on Tuesday. Whatever it were I don't exactly remember.

Q. Did you hear Captain Henry say anything like this, "I don't want your anchor. I don't want any anchor," when Captain Miller said the reason he hadn't come back was because he had gone for an anchor? A. I didn't hear that.

Q. Didn't hear anything substantially of that kind? A. I didn't.

Q. Where was this conversation?

A. That was on the main deck just about abreast of the mainmast on the starboard side.

Q. You were there? A. I was there.

Q. You saw Captain Miller come aboard?

A. I did.

Q. You saw Captain Miller talk to Captain Henry?

A. Yes.

Q. You also remained there until Captain Miller left to go and drop his anchor? A. I did.

Q. How long was that wire, the line that was used as a preventer in connection with the Miller line, used to strengthen the latter, to supplement the ten-inch manilla hawser which ran from the wire line of the Miller Salvage Company on board the "Celtic Chief"?

A. I couldn't tell you the length of them.

Q. You don't know how far it was from the stern of the vessel to the shackle where the wire lines and

(Testimony of J. F. Haglund.)

manilla hawser were made fast to the big wire line?

A. I could not tell you the distance that was.

Q. That wire line was straight out of the water about [3128—2297] eleven o'clock of Wednesday night, the big wire line, so that the end of the big wire line was visible?

A. The big wire was visible to me at eleven o'clock.

Q. So that the whole of the manilla hawser was visible and also the end of the wire line?

A. Aboard the ship.

Q. But you could see also the manilla hawser running out to the big wire line?

A. At eleven o'clock, I couldn't positively state whether that manilla hawser was inside or close up to the chock. That I couldn't possible state because I didn't look up so high as that.

Q. How did you happen to see all of these manilla hawsers which were supplied to the Inter-Island boats for the "Celtic Chief" operations?

A. How did I happen to see them?

Q. Yes. A. By looking at them.

Q. I judge that in order to see them you had to look at them, but how did you happen to look at them?

A. I don't understand what counsel means by that question.

Q. Well, did you have anything to do with the supplying of those lines to the vessels?

A. I ordered them from the ship's chandlery store; yes.

Q. And did you go and get them?

A. I did not; the draymen went and got them.

Q. And where did he take them to?

A. Took them alongside of the steamers.



(Testimony of J. F. Haglund.)

Q. How do you know? A. I saw them.

Q. Where did you see them? A. On the wharf.

Q. And you saw all of those lines delivered?

A. Not all. I saw the "Mikahala's" and the [3129—2298] "Mauna Kea's."

Q. Did you see the "Likelike's" line at all?

A. I did not.

Q. You don't know whether it was a new line?

A. I do; I saw it when it come out to the "Celtic Chief." I had hold of it there to make it fast at the "Celtic Chief."

Q. What kind of a line is ordinarily used by tugs here in the harbor for towing purposes? What size?

A. The "Intrepid," you mean?

Q. Yes, the "Intrepid" or any other tug that does towing?

A. The "Intrepid," I think her line is about ten inches, and on the Inter-Island boats it depends on which boat tows. The "Mauna Kea," send her out for anything, I generally supply her with eight or nine inch manilla hawser. If it is a more powerful boat, of course, I have to put a heavier line aboard.

Q. When was it that the "Arcona" first broke her line?

A. So near as I can remember, about noon on Wednesday.

Q. When did she come out?

A. That was on between eleven and twelve o'clock. I don't know exactly the time. It was after eleven, if I remember right.

Q. And she had already gotten her line aboard and gone forward and broken it about twelve o'clock?

(Testimony of J. F. Haglund.)

A. Maybe little after twelve; maybe half-past twelve.

Q. When was it she changed, the position of her anchor, with reference to the breaking of that line, before or after?

A. It was after breaking the first line.

Q. She didn't run afoul of the "Helene" up to the time she broke that first line?

A. She didn't go so far as the "Helene" when she broke it. She broke that line when she tried to put herself in position, lying at [3130—2299] that time seaward of the "Helene."

Q. As a matter of fact, she was able to make fast to the "Celtic Chief" in the first position, get her line into position where she could pull and did pull and break that line, without fouling the "Helene"?

A. I didn't say that. She didn't pull on that line.

Q. It broke without any pulling?

A. It broke in trying to slue her around. That was no size wire for her to pull on.

Q. Did that wire run afoul of the "Helene"?

A. No, not that I know of. It didn't foul it. It might have been against it; I don't know. I was on the "Celtic Chief."

Q. You didn't take that into consideration when you stated the opinion that it was an unseamanlike manoeuver? You didn't take into consideration the fact that she actually got her line aboard of the "Celtic Chief" and was able to break that line without fouling the "Helene"?

A. She could not very well foul the "Helene."

Q. You didn't take that into consideration?

(Testimony of J. F. Haglund.)

A. I don't understand your question.

Q. With her anchor in her first position she would have been able to haul in on her anchor-chain, could she not, and thus have prevented herself from fouling the "Helene"?

A. Yes, but then by doing so she would have drifted down; she had nothing to hold her beside her engine.

Q. Wouldn't the line that was attached to the "Celtic Chief" have some tendency to hold her?

A. Certainly not. [3131—2300]

Q. Wouldn't the line on the "Celtic Chief" have become taut if she had hauled in on her anchor?

A. And dragged her anchor?

Q. It all depends whether her anchor would drag?

A. It certainly would.

Q. Did the "Helene's" anchors drag?

A. No, she had a big scope of chain out. The "Arcona's" anchor wouldn't drag either after she placed it in a proper position.

Q. Do you know it did drag in this first position?

A. She never heaved in.

Q. Then you don't know if it would have dragged?

A. If she had heaved up her anchor it wouldn't prevent her.

Q. If she had attempted to use that anchor in getting her position there you say that it would not hold, that it would drag?

A. I know she couldn't possibly get into position with the anchor where it was placed the first time. It's impossible.

Q. I'm asking you if you know the anchor had dragged, and until that question is answered—I move

(Testimony of J. F. Haglund.)

to strike the last answer on the ground it is not responsive.

The COURT.—The motion is granted.

Q. I ask you whether or not you could tell that the anchor had dragged without knowing the character of the bottom there in the position it was first laid in?

A. If the ship had remained outside where she were?

Q. Can't you answer my question?

A. Well, I must know under what conditions, Mr. Olson.

Q. Would it be possible to heave in on the line attached [3132—2301] to the "Celtic Chief" at the same time or after doing that heave in on the anchor-chains?

A. No. It is just what I have already stated. She couldn't do that. She would foul the "Helene." She couldn't come in when the anchor was dragged.

Q. Do you regard it as seamanlike or good seamanship for the "Mikahala" to have remained in her position if the "Arcona" by beginning to pull at any time or heaving in on her anchor-chain would foul the "Mikahala"?

A. All kinds of chances for the "Mikahala" to get clear of that if she had been requested or if the "Arcona" had attempted to heave her chain. The "Mikahala" could have got out of her way.

Q. You think it was perfectly simple even though the wind and the current would have influenced the "Arcona" in the same way?

A. The "Mikahala" having two towlines, one on each side, it was just as easy for the "Mikahala" to tow from her port side as it was from her starboard

(Testimony of J. F. Haglund.)

side, which would have got the "Mikahala" from the "Arcona" if she had attempted to heave in her chain.

Q. You regard that as good seamanship on the part of the "Mikahala"?

A. There was no seamanship required.

Q. In other words, there was no poor seamanship involved in that?

Mr. WARREN.—I'd like to have the witness allowed to finish the answer that he was interrupted—

The COURT.—Finish your answer, Captain.

The WITNESS.—It is pretty good seamanship, I should judge, when a master of a ship fixes his vessel so he can handle her either way she may be required.

Q. I'm asking you if there was any poor seamanship involved [3133—2302] in the "Mikahala's" remaining in that position even though if the "Arcona" had begun to pull, the "Arcona's" lines would have fouled her?

Mr. WARREN.—I object to that as suppositious.

The COURT.—It seems to me that's proper cross-examination.

A. I have stated that the "Mikahala" would not remain in that position.

Q. That is not the answer I'm asking you for and I move to strike on the ground it is not responsive.

The COURT.—I sustain the objection.

Mr. OLSON.—That is, grant the motion. Now, state whether or not that was good seamanship.

Mr. WARREN.—I object to that, your Honor; he says that was poor seamanship.

Mr. OLSON.—Your Honor allows the question, as I understand?

The COURT.—Yes, I do.



(Testimony of J. F. Haglund.)

Q. Answer the question, Captain. Would that or would that not be poor seamanship?

A. If the "Arcona" had attempted to heave in on her chain?

Q. Kindly repeat the question to him.

(Question read.)

Q. Now, Captain, in order to make it perfectly clear to you—

Mr. WARREN.—I object to that. I want that question to be asked.

(Question read.)

Q. Go on, Captain, and add some more if you want to do so.

A. Supposing the "Arcona" had heaved in her chain, with the "Mikahala" line in the position that she was, she wouldn't foul the "Mikahala." [3134—2303]

Q. But she would come close alongside of her and the way the "Mikahala" was towing at that time she would come down ahead probably three or four points and, therefore, it was poor seamanship for her to remain in that position?

A. I consider seamanship very good in all cases out there referring to our Inter-Island boats.

Q. When did you see the commander of the "Arcona" when you came aboard the "Celtic Chief" about eleven o'clock?

A. I did not see him at that time.

Q. When did you see him?

A. When he was—when he run by the poop to go on his boat.

Q. That's when you saw him for the first time?

(Testimony of J. F. Haglund.)

A. That's the first time that I know he was aboard.

Q. And that was about what time?

A. Just as the ship was coming off the reef.

Q. He had been on the poop deck where you had been during the better part of a half an hour or more yet you didn't see him? A. I did not.

Q. Didn't you say he was on the starboard quarter?

A. He came running from there, but where he had been previous to that I don't know.

Q. What was the nearest distance, the nearest distance, that between the "Helene's" bow and her starboard anchor or that between the "Helene's" bow and her port anchor?

A. Her starboard anchor. Her starboard anchor was the furthest off.

Q. How many fathoms? A. Ninety.

Q. After it was hove taut how far was the Miller anchor laid from the stern of the "Celtic Chief"?

A. The Miller's anchor?

Q. Yes.

A. Just a little ways [3135—2304] ahead of the "Arcona's" stern.

Q. How many feet would that be, about?

A. Oh, I should judge about thirty or forty feet perhaps.

Q. How much? A. Thirty or forty feet.

Q. Ahead of the stern of the "Arcona"?

A. Yes.

Q. How far would that be then from the "Celtic Chief's" stern?

A. Well, the nearest would be, approximately six hundred and seventy feet, I should judge.

(Testimony of J. F. Haglund.)

Q. Six hundred and seventy feet?

A. About that. Between seventy and eighty.

Q. So that it was more than a hundred feet farther distance from the stern of the "Celtic Chief" than the "Helene's" fore-castle was forward of the poop of the "Helene"? A. Yes.

Q. Now, how high out of the water is the bow of the "Helene" at the point where its anchor-chains, or on the line of the points where its anchor-chains go into the bow? A. Maybe ten feet.

Q. How much?

A. Maybe ten feet; I don't know.

Q. About ten feet. What was the depth of the water at the bow of the "Helene"?

A. Somewheres over five fathoms; I don't know exactly how much.

Q. That would be somewhat over thirty feet—that's right, isn't it? A. Five fathoms, yes.

Q. How much?

A. Five fathoms is thirty feet, yes.

Q. So that from the point at which the anchor-chains of the "Helene" went out of the "Helene" to the sea-bottom there would be about forty feet, would there not? A. I didn't measure that.

Q. Well, if there were five fathoms or over, or thirty [3136—2305] feet and ten feet from the water line to the point where the chains went out of the bow of the "Helene," that would make forty feet, wouldn't it?

A. Yes, but her anchor-chains wasn't there.

Q. Where were the anchor-chains?

A. Out ahead.

Q. I mean at the point where they went into the

(Testimony of J. F. Haglund.)

“Helene”? A. Yes.

Q. That would be forty feet from the sea-bottom?

A. Approximately that.

Q. And the point where the Miller Salvage Company's line went over the stern of the “Celtic Chief” was about twenty feet further ahead, wasn't it?

A. Yes.

Q. And there was about nineteen feet of cable?

A. Approximately that.

Q. So there would be thirty-nine or forty feet there from the point where the Miller Salvage Company's line went aboard the “Celtic Chief” to the sea-bottom; isn't that right? A. Yes.

Q. What was the depth of the water where the starboard anchor of the “Helene” was lying?

A. Oh, maybe between six and seven fathoms.

Q. Six or seven fathoms?

A. Not any over seven.

Q. About forty feet, you think?

A. Maybe little less.

Q. Thirty-five or forty? A. Approximately.

Q. Now, at the point where the Miller Salvage Co. anchor was laid what was the depth of the water?

A. Just about five fathom.

Q. About five fathom? A. About that.

Q. That would be about twenty feet?

A. Maybe a trifle more. [3137—2306]

Q. Do you know the weight of the Miller Salvage Company's wire hawser which was attached to the Miller Salvage Company's anchor? A. I do not.

Q. Do you know the weight of the anchor-chain that let off from the “Helene” to the “Helene's” starboard anchor? A. I do.

(Testimony of J. F. Haglund.)

Q. What's the weight?

A. Approximately one hundred and twenty-eight or twenty-nine pound to a fathom.

Q. Then, as a matter of fact, you've testified that the reason why an anchor halfway is more effective than when nearer is because of the smaller angle?

A. Smaller angle. As a matter of fact, the "Helene" anchor was lying nearer to the "Helene's" bow than the Miller anchor was laid distant from the "Helene's" stern.

Q. Then, I understand that the angle would, if anything, be less for the Miller anchor than the "Helene's" starboard anchor, would it not?

A. Yes, but not at the "Helene."

Q. That has nothing to do with the matter as far as I understand it, Captain.

A. It got everything to do with it. In this case, that anchor wasn't laid out in that position, Mr. Olson, to hold the "Helene"; it was placed there for the purpose of holding the "Celtic Chief" from going in.

Q. I understand that, Captain. Now, Captain, I want to show you a little piece of paper here with a drawing on it on which I have a line marked "sea level" and another marked "sea-bottom."

Mr. WARREN.—One moment, your Honor. What is the purpose of this?

Mr. OLSON.—I'm going to offer it in evidence.

Mr. WARREN.—Your Honor overrules my objection?

The COURT.—Yes.

Q. Now, another line on this piece of paper I have



(Testimony of J. F. Haglund.)

[3138—2307] marked “sea-bottom.” I have also there, two figures, one of them, I put the name “Helene” and on the other “Celtic Chief.”

Mr. WARREN.—I want further to object to any supposititious questions or any hypothetical questions involving there particular vessels.

The COURT.—Objection overruled.

Q. Now, then, Captain, I want you to take that paper. I’ve also drawn lines running from each of those two figures, the “Celtic Chief” and the “Helene,” to the bottom, and have drawn small anchors at the end of those lines. There is, also, a line between the two vessels indicating a towline between the “Helene” and the “Celtic Chief.” Now, I’ll ask you if that is not approximately the position, the relative positions of the Miller anchor as compared with the starboard anchor of the “Helene.”

Mr. WARREN.—Now, I certainly object to this, if your Honor please, any supposititious question—

Mr. OLSON.—In order to save time, I will let the witness draw and I’ll withdraw the questions that I have already asked. Captain, assume a scale of a hundred feet to the inch to start with. Kindly draw across the page, somewhat near the middle of the length of the page, a line indicating sea-bottom.

(Witness draws.)

Q. Now, then, with the depth of water at the stern of the “Celtic Chief” being, that is, the sea-bottom at the “Celtic Chief’s” stern from the stern itself, being about forty feet, will you kindly draw the sea level with reference to that point on that page on this scale?

(Witness draws.)

(Testimony of J. F. Haglund.)

Q. Now, having found the point which would be sea level, will you kindly draw a line across that page indicating [3139—2308] sea level, also finding the, also measuring the same at the other end of the page?

Mr. WARREN.—I object, your Honor.

Q. The length of that page is approximately thirteen inches, is it not?

A. Approximately thirteen inches.

Q. That would be about thirteen hundred feet, would it not? A. Yes.

Q. Now, then, what would be the depth of the water about thirteen hundred feet or say twelve hundred feet astern of the "Celtic Chief"?

A. Approximately thirteen hundred feet.

Q. Would be the position of the "Helene's" starboard anchor? A. Starboard anchor.

Q. Mark the "Helene's" starboard anchor, will you? At this sea bottom that you've drawn, draw an anchor.

(Witness draws.)

Q. Now, will you write "sea bottom" on this line that you have drawn?

(Witness writes.)

Q. Now, you have testified that there was about six or seven fathoms of water or about thirty-six or forty feet of water where the "Helene's" starboard anchor was laid, have you not?

A. That's the greatest depth.

Q. That would be about it, would it not?

A. Yes.

Q. That's your testimony, is it not?

A. Between six and seven; it may be as near seven.

(Testimony of J. F. Haglund.)

Q. Make it approximately, say, thirty-eight feet. Now, according to the scale of one inch for a hundred feet, kindly find the sea level.

A. That's about it. (Indicating.)

Q. Mark that, please. [3140—2309]

(Witness marks.)

Q. Now, then, about twenty feet at the stern of the "Celtic Chief," will you kindly find that sea level at the other end?

(Witness marks.)

Q. Now, have you found the point which would indicate sea level? A. Approximately, yes.

Now, then, please draw the sea level line according to those two points so found.

(Witness draws.)

Q. Now, kindly write "sea level" on that line?

(Witness writes.)

Q. Now, will you kindly draw the "Helene" at its location, showing its bow where the anchor chains came out of the bow ten feet above sea level?

Having found the point where the "Helene's" bow was, now draw the "Helene," please, her length being shown also.

(Witness draws.)

Q. Now, have you shown the "Helene"?

A. Yes.

Q. Now, mark that "Helene," please.

(Witness marks.)

Q. Now, draw a straight line from the "Helene's" bow to her anchor.

(Witness draws.) This ought to be out here; that's not as long as between the "Celtic Chief" and

(Testimony of J. F. Haglund.)

the starboard anchor.

Q. Now, have you drawn the anchor chain from the "Helene's" bow to her anchor?

(Witness draws.) I have.

Q. Now, then, kindly indicate the "Celtic Chief's" stern. Kindly draw the "Celtic Chief," her stern.

(Witness draws.)

Q. Have you drawn the "Celtic Chief"? [3141—2310] A. I have.

Q. Kindly mark it "Celtic Chief."

(Witness marks.)

Q. Now, then, please indicate on the sea-bottom, as you have drawn it, the position of the Miller anchor by drawing an anchor at its location.

(Witness draws.)

Q. Mark it "Anchor," will you, please?

(Witness marks.)

Q. Have you drawn the Miller anchor?

A. I have.

Q. And have you drawn a line indicating a straight line indicating the line from that anchor to the stern of the "Celtic Chief"?

A. As near as I can, yes.

Q. Now, then, Captain, this drawing that you have made is, for all practical purposes, a correct drawing, is it not, showing the angles of straight line in the first place from the anchor of the "Helene," to the "Helene's" bow her starboard anchor to her bow, and, secondly, the Miller anchor to the "Celtic Chief's" stern; is that not correct?

A. Approximately correct, yes.

Q. Kindly draw a line indicating the hawser of the

(Testimony of J. F. Haglund.)

“Helene” to the “Celtic Chief.”

(Witness draws.)

Q. Now, mark the Miller anchor “Miller anchor,” here.

(Witness marks.)

Q. Anchor line attached to that.

(Witness marks.)

Q. Have you marked the Miller anchor line, “Miller anchor line”? A. I have.

Q. Now, mark the “Helene’s” anchor line, “‘Helene’s’ anchor line.”

(Witness marks.)

Q. Please show on this plan that the scale is one hundred [3142—2311] feet to the inch.

(Witness writes.)

Q. Kindly mark underneath the “Helene’s” anchor as drawn, “‘Helene’s’ starboard anchor.”

(Witness marks.)

Q. Now, then, Captain, in so far as the anchor is concerned in each case the angle of a line from the anchor itself from the Miller anchor to the “Celtic Chief” is somewhat smaller than the angle formed by a straight line from the “Helene’s” starboard anchor to the “Helene’s” bow; isn’t that true?

A. I believe so.

Mr. OLSON.—I offer this drawing made by Captain Haglund to which, concerning which he has been testifying in evidence.

The COURT.—It may be received in evidence and marked Libellants’ Exhibit “P.”

Q. I’d like to have you repeat that last statement. The angle that you have just referred to, that angle



(Testimony of J. F. Haglund.)

to the Miller anchor, will be somewhat less than that formed by a straight line to the "Helene's" bow?

A. I never measured it.

Q. It would be as a matter of fact.

A. Providing the chain would be held as taut as a wire.

Q. You don't know what the weight of the Miller anchor line was? A. I know it was less—

Q. I'm asking you if you know what it's weight was? Do you? A. Not in pounds, no.

Q. Do you know its size? A. Approximately.

Q. Well, what is its approximate size.

A. Approximate size, I stated, six inches, but I am not positive about it.

Q. Don't you know, isn't it quite possible that it was a two and a half inch diameter, steel hawser? [3143—2312] A. No, sir.

Q. You are sure of that? A. I am sure of that.

Q. Approximately two inches?

A. Less, if anything.

Q. Now, the purchase that the "Helene's" anchor would get by virtue of the angle, aside from the question of the weight of the anchor-chain, would not be any greater or better than that of the Miller anchor, would it, aside, I say, from the weight of the anchor-chain? A. I couldn't state that.

Q. You wouldn't state that? A. Not in pounds.

Friday, November 3, 1911.

Q. Captain, was there any mud around that vicinity in the sea-bottom, as far as you know?

A. Not to my knowledge.

Q. And a sandy bottom has been spoken of to the

(Testimony of J. F. Haglund.)

extent that there was sand. That is sand which is composed chiefly of ground-up coral, is it not?

A. All the sand around the Hawaiian Islands is more or less coral.

Q. Yes, it's ground-up coral to a large extent, and as that kind of bottom it presents a fairly firm bottom, does it not? A. It does, in places.

Q. It's not soft like mud? A. No, not mud.

Q. And that was true out there in so far as there was any sandy bottom? A. So far as I know.

Q. What is the width of a link in the kind of a chain that the "Helene" had to its anchors?

A. The width of it?

Q. Yes, width of the chain, the width of a link?

A. I couldn't state it correctly.

Q. You testified that the links were seven or eight inches long?

A. So near as I could judge. [3144—2313]

Q. Well, what is your best judgment as to the width of a link?

A. Approximately four or five inches.

Q. It's almost, then, within an inch or two, as wide as it is long?

A. It may be a little longer than seven inches.

Q. And what is the thickness of the bar, around, the diameter? A. Inch and a half.

Q. That is to say, if you were to cut one of those links at one end and straighten the bar out, the bar would be an inch and a half thick?

A. Thick; yes.

Q. About how far, about how high were those swells that you've spoken of that came in, about how

(Testimony of J. F. Haglund.)

high would they rise at the sides of the towing steamers? A. Well, it is hard to state that correctly.

Q. Well, it is hard as you can state?

A. As the steamers were rising up with the swells it is pretty near impossible to determine the height of the swells. They are certainly a great deal less than they would be alongside the "Celtic Chief" as they rose up.

Q. Nevertheless, those swells could be seen, couldn't they? A. Oh, certainly.

Q. And as they would come to the edge of the reef they would increase in size?

A. As the water shallowed up, yes.

Q. The larger swells would be apparently larger out among the towing steamers in comparison with the smaller swells, would they not? A. Yes, sir.

Q. Now, about how many feet per minute would those larger swells travel?

A. I couldn't possibly state that.

Q. You've no idea?

A. They travelled slowly, but how fast I couldn't state. [3145—2314]

Q. Travelled fairly slowly?

A. Fairly slowly, yes.

Q. Now, then, Captain, in view of the danger that you have testified to incurred by the shore boats working alongside the "Celtic Chief," the men in the shore boats would naturally, would they not, keep their eye for these swells as they were coming in?

A. Yes.

Q. And, as a matter of fact, the swells could be seen out as far as the towing steamers and, therefore, they

(Testimony of J. F. Haglund.)

would know when the swells were coming in?

A. They can see them before they strike the boat.

Q. Now, these swells didn't come one right after another, within a half second of each other?

A. Not so close as that.

Q. As a matter of fact, there was some little interval between each swell? A. Yes.

Q. And especially between the larger ones, is that not true?

A. Well, there's little longer interval, yes.

Q. So that, being able to see these swells coming in at from a distance as much as five, six, or seven hundred feet, the distance of the towing steamers away from the "Celtic Chief," the men in the shore boats would be prepared, practically speaking, in each instance as they came along?

A. In the daytime when they could see it.

Q. You have testified, have you not, to some danger to the boats and the men in the boats from the slings swinging out over the boat? A. I said that also.

Q. How long did it take to lower a sling from the boom which was swung out over the side of the "Celtic Chief," into the shore boats.

A. That wouldn't take very long; hardly a second or so.

Q. Perhaps less than that?

A. No. [3146—2315]

Q. It would have dropped down easily but, nevertheless, quite quickly?

A. Yes, but you couldn't lift it up.

Q. Now, then, Captain Haglund, wasn't it perfectly possible, especially during the daytime, to drop

(Testimony of J. F. Haglund.)

those slings in the shore boats so as to avoid the crest of the swell in each instance?

A. We couldn't unless we sacrificed the rapidity of the discharging. I should say that was the main object, to get the cargo out of the ship.

Q. About how far from the stern of the "Celtic Chief" were the boats lying alongside of the "Celtic Chief," which were taking cargo from the main hatch? A. Well, approximately in the midships.

Q. Approximately amidships, that is, seventy-five or a hundred feet at least from the stern of the "Celtic Chief"?

A. It would be a hundred and thirty feet in this particular case.

Q. Now, then, by the time that a swell had reached the stern of the "Celtic Chief," where it would be visible easily, a slingload could be dropped or lowered into the boat before that swell actually reached the shore boat, couldn't it?

A. I only say that it might and it might not. We could not know the height of each swell and we never know how fast they were coming. If the swells had been coming at the same rate of speed. The bigger the swell was the more velocity it would have as it struck the shallower water.

Q. Did you have a man stationed alongside of the rail or bulwarks of the "Celtic Chief" for the purpose of watching out for these swells in the lowering?

A. No, I didn't have a man stationed for the purpose of watching the swells, but I had a man there on purpose to avoid any accident to the man in the boats. He wasn't particularly directed to [3147—2316]



(Testimony of J. F. Haglund.)

watch out for these swells.

Q. You didn't regard that as of sufficient importance to call that to his attention?

A. All our steamer men, they are so used to working like that in the boats in a seaway, so that it's not necessary to caution them.

Q. They are perfectly accustomed to doing work of that kind?

A. Not exactly of that kind as existed at the "Celtic Chief," but in the seaway alongside of steamers.

Q. Where the conditions would require observation and attention of the same character on the part of the men working the shore boats?

A. I don't understand the question clearly enough to answer it.

Q. Repeat the question. (Question read.) These men are accustomed to working under conditions which would require the same character of observation as was required out there at the "Celtic Chief" in regard to the safety of lowering cargo into the shore boats.

A. No, they were not accustomed to that.

Q. Then, why didn't you keep a man stationed alongside for the purpose of looking out for these swells and hoisting the slings up?

A. We had no means of doing so, in regard to the hoisting of them slings.

Q. In other words, you regard the ability to hoist and lower the arm or the sling attached to the arm, as the only means of avoiding the swells.

A. In order to do the work as we did it. As I stated before, if we would take our time about it we

(Testimony of J. F. Haglund.)

could haul the boat away and watch an opportunity between the larger swells and accomplish the work without the danger that we did.

Q. And that's the only means that occurs to you of avoiding [3148—2317] the danger of those swells, is it? A. That's the only means.

Q. It's the only way that you know.

A. In this particular case.

Q. Didn't occur to you to keep a man alongside of *the*, or at the bulwarks or rail of the "Celtic Chief," to watch the swells and direct the lowering of the sling just after the swell had passed or a sufficiently long time after the swell had passed?

A. I had a man stationed at the rail in order to make the signal when to go, when to lower in the boats, and to avoid accidents as near as possible.

Q. Did you call their attention to these particular swells?

A. I certainly did—to be careful, not to have any accident.

Q. Did you tell them to give a signal to lower when a swell was about to come on the shore boat.

A. I certainly did that.

Q. And they did that? A. So near as possible.

Q. Now, in the daytime with these intervals between the swells, there was no difficulty in avoiding those swells? A. Not the small swells.

Q. Even the large ones?

A. It was a little difference between the swell, Mr. Olson. Neither I nor anybody else could judge that correctly.

Q. But you have testified, have you not, that there

(Testimony of J. F. Haglund.)

was a considerable interval between each swell, a considerable interval. It wasn't a matter of one following the other with a second interval?

A. Not a second.

Q. You have testified that it would take only about a second to lower a sling into the boats?

A. All depends where the sling was.

Q. After the sling was over the side of the vessel?

A. The sling had to be. After the slingload of fertilizer [3149—2318] is swung there was somewhere about twenty feet below and you couldn't do that in a second unless you let it go and break the boat and kill somebody.

Q. You could lower that down slowly?

A. Yes, we did, and occasionally the swell came and lifted the boat and that's where the danger came in.

Q. Your man at the rail of the "Celtic Chief," stationed there with the duty in particular of looking out for these swells, would direct the lowering of a sling, would he, when the swell was about to come down?

A. He didn't know how fast the swell was coming. After the swell commenced coming near the "Celtic Chief" and commenced breaking it would take less than a second.

Q. You think it would take less than a second for those swells to travel a hundred to a hundred and thirty feet? A. Some of the bigger ones.

Q. If that was the case and these larger swells were all of that character, the man at the side of the boat would, naturally, look out for these swells?

(Testimony of J. F. Haglund.)

A. He certainly did.

Q. When did the search-light of the "Arcona" begin to appear and play on Wednesday night?

A. When it commenced?

Q. When did it begin to appear?

A. So near as I can remember, approximately eleven o'clock.

Q. You had ship's lights around the "Celtic Chief" at various places? A. Oil lamps.

Q. And there were ship's lights around the deck?

A. Yes.

Q. As a matter of fact, these ship's lights were sufficient to light up the water so that you were able to see the Miller anchor buoy some fifty feet away from the "Arcona," weren't you?

A. With the lights from the "Arcona." [3150—2319]

Q. The lights from the "Arcona," not the search-light. You could see that anchor buoy, couldn't you, on Wednesday night?

A. I was alongside of it in a boat. I never stated I could see the anchor buoy from the "Celtic Chief."

Q. Was that the only time you could see that anchor buoy? A. Daytime I could see it plainly.

Q. We are referring now to the night-time.

A. I saw it at night but not from the "Celtic Chief."

Q. Well, you rowed out there passed that buoy?

A. I did.

Q. And when you came within fifty or sixty feet of it you could see it with the aid of the lights from the "Arcona"?

(Testimony of J. F. Haglund.)

A. I was closer than fifty or sixty feet.

Q. Then you came within fifty or sixty feet?

A. I didn't watch out for it particularly.

Q. Didn't the lights from the "Arcona" light up the water sufficiently around her so that objects could be seen somewhat of a distance from her.

A. The search-light—

Q. Not the search-light.

A. There was electric lights. It was certainly great deal more light around there than at the "Celtic Chief."

Q. Now, as a matter of fact, you had lights around the stern of the "Celtic Chief"? A. Oil lamps.

Q. As a matter of fact, there was sufficient light on Wednesday night so that by looking over the side of the vessel you were able to see the lines forty or fifty feet or more out from the "Celtic Chief." You have so testified, have you not?

A. I could see light after the search-light—

Q. Before the search-light was put on.

A. From the "Celtic Chief"? [3151—2320]

Q. Yes. I'm carefully avoiding that search-light. From the "Celtic Chief."

A. There was a number of hours that I was absent from the "Celtic Chief" during that evening and I didn't state that I could see from the steamer or the "Likelike" the lines coming aboard the "Celtic Chief."

Q. Can't you understand, Captain, that I'm asking you to testify with reference to what you could see on Wednesday night after dark before the search-light was put on?



(Testimony of J. F. Haglund.)

A. I wasn't aboard the "Celtic Chief" more than a short interval after dark, an hour and a half after dark at the most. I left the ship before nine o'clock.

Q. What time was it dark on Wednesday night?

A. About half-past six or seven o'clock.

Q. During that hour and a half, were you ever on the poop of the "Celtic Chief"?

A. I certainly was.

Q. I want to know if, during that time while the "Arcona" search-light was not being used, whether or not you could see the lines attached to the "Celtic Chief" forty or fifty or more feet out from the stern of the "Celtic Chief."

A. I think I could see that length of distance.

Q. If you could see these lines at that distance, it would have been possible for you to see the lines that far? A. I couldn't state that.

Q. Do you think that if you could see those lines as far out as fifty or sixty feet out from the "Celtic Chief" that you could see the swells directly underneath those lines? A. I couldn't state that.

Q. Is it your present judgment that you could not see those swells? A. Not as plain as the lines.

Q. Did you see them at all?

A. I might have, but I don't think I could.

Q. Now, if there was so much danger from these swells that you have talked about, Captain, withdraw that. Did you [3152—2321] have a man stationed up on the poop of the vessel to look out for these swells that were of such danger?

A. The man on the poop was of less use to watch swells than he would be amidships. That would be a poor idea.

(Testimony of J. F. Haglund.)

Q. It would be a poor idea to have a man on the poop to help out the man amidships?

A. It would be absolutely of no use.

Q. Because it wasn't of sufficient importance to think of the swell. The swell never rose up before it passed the "Celtic Chief" stern; is that right? You have testified, have you not, that the swells were all visible in the daylight out as far as the towing steamers?

A. To a certain extent they were visible, but to determine how high they would be when they struck the "Celtic Chief" no living man could testify to it.

Q. You have testified, have you not, that the larger ones were visible out at the "Celtic Chief" as distinguished from the smaller ones?

A. You could distinguish them.

Q. They wouldn't be so distinguishable, would they, fifty or sixty feet away from the stern of the "Celtic Chief"? A. I could not state that.

Q. Wouldn't it have been quite possible and also of assistance to have a man stationed at the poop of the vessel with a megaphone through which he could holler out to the man amidships about the swell?

A. Not stationed at the poop.

Q. You could not see the swells very plain although you could see these lines fifty or sixty feet?

A. I certainly could, fifty or sixty.

Q. Now, there must have been some light shining for you to be able to see those lines?

A. There was considerable lights around the steamers.

Q. And those lines would help you to see those

(Testimony of J. F. Haglund.)

lines at that distance?

A. I suppose they assisted. [3153—2322]

Q. It was a dark, cloudy night?

A. In the first part of the evening it was a clear night.

Q. Starlight?

A. There were stars out in the beginning of the night but not afterwards.

Q. Now, in view of your reluctance to testify about that hour and a half in the early part of the evening—

Mr. WARREN.—I object to that, your Honor. Those statements are involuntary, not called for, and improper and I move they be stricken from the record.

Mr. OLSON.—In order to save time I will withdraw the statement so far stated. Calling your attention to the time that darkness fell on Wednesday night and the period thereafter until about nine o'clock when you say you left the "Celtic Chief"—

A. I don't know exactly what time I left the "Celtic Chief."

Q. I am merely repeating what you have already testified that you left about nine o'clock.

A. Between eight and nine, I testified to.

Q. All right then. Calling your attention, Captain Haglund, so there will be no misunderstanding, to the time when darkness fell on Wednesday night and the period thereafter until you left the "Celtic Chief" between eight and nine o'clock, are you prepared to testify that it was starlight during the whole of the time? A. No, I am not.

(Testimony of J. F. Haglund.)

Q. You are not prepared to so testify? As a matter of fact, you know, do you not, Captain Haglund, that it was already being clouded over and dark when you left the "Celtic Chief"?

A. Not in the same manner as it was at midnight.

Q. It was clouded over?

A. Not so clouded over that you couldn't see a star out the first part of the evening.

Q. You mean to say there were stars shining at that time?

A. There were stars. I don't say how much shine there was to them. [3154—2323]

Q. Are there any open spaces of any sort in the way of port-holes or apertures of any kind below the poop deck at the stern, at or about the stern of the vessel, "Celtic Chief," I'm speaking of?

A. Is there what?

Q. Any port-holes or apertures, openings at the poop deck below the stern?

A. I don't understand that question clearly.

Q. Very well, I direct your attention to Libellant's Exhibit "I," a photograph of the "Celtic Chief," and I call your attention to a dark square in the belt or line running around the whole of the "Celtic Chief." There are a number of those squares?

A. Yes.

Q. What are they?

A. They are called ports but they are not ports.

Q. There is no opening there at all?

A. There is no hole.

Q. Do you mean to say there are no openings at the side of the vessel? A. I think there are.

(Testimony of J. F. Haglund.)

Q. None at the stern? A. None at the stern.

Q. None whatever?

A. None above the bulwarks.

Q. Now, Captain, in view of the fact that there were no apertures or openings below the poop deck at the stern of the "Celtic Chief," it would have been a comparatively simple thing to have dropped or lowered a seat by means of ropes over the stern and stationed a man there to look out for these tremendously dangerous swells? A. I don't think so.

Q. Why? Would the ropes have broken?

A. You could have got a rope, but I would not send a man in it.

Q. You would not? A. I would not.

Q. Why not?

A. Swell might come by and take the seat.

Q. It didn't occur to you, it doesn't now occur to you, [3155—2324] does it, that it would have been possible to have lowered that seat a distance that would have been safe? A. I wouldn't go that far.

Q. Did you observe any swells that washed up over the poop deck? A. I did not.

Q. So it would have been possible, in the way that she was lying there that night, to have had a man sent over the side and have been safer than the man in the shore boats?

A. I never know, but there might have been a swell that would have swept her deck; not very far from it at that.

Q. But rather than endanger the life of one man seated in a seat lowered in that fashion, you endangered the lives of all the men working in these shore boats?



(Testimony of J. F. Haglund.)

A. That would have been absolutely of no value to have a man stationed in this manner, Mr. Olson. It was all we could do to tend to the fertilizer let alone lowering a man over the side.

Q. It was because you couldn't spare the men?

A. I could spare the men but it certainly would have been a peculiar method of observing the swells.

Q. And why couldn't a man lowered in a seat look after the swells?

A. Because the man in the boat could look out better.

Q. In what boat?

A. In the cargo boats. They were the men who could see the swells more clearly coming than anybody from the ship.

Q. Do you mean to say that the men in those shore boats could see those swells coming in before reaching the stern of the "Celtic Chief" better than a man in the seat?

A. I don't say the whole distance; you couldn't see those swells farther out from the "Celtic Chief."

Q. You say that the men in the shore boats were about amidships of the vessel?

A. They were. [3156—2325]

Q. I now ask you if it wasn't perfectly possible for them to keep a perfect lookout for all of the swells that were coming in in view of the fact that they could see them as far out as the towing steamers?

A. We were in danger for to facilitate the discharging of that ship.

Q. It isn't conceivable to you that you could have

(Testimony of J. F. Haglund.)

gotten your cargo out practically as rapidly and have used care with respect to the coming in of those swells?

A. We did use all the care we could and the fact of the matter was that there wasn't a single boat that was capsized and there wasn't a single man that was injured.

Q. So that it was possible, with the care that you exercised there, to avoid danger to such an extent that no danger was actually suffered, no injury was actually suffered from these swells?

A. In this case there was nobody hurt, to my knowledge.

Q. And those lightering operations extended throughout Tuesday night, all of Wednesday, and all of Wednesday night until about eleven o'clock—is that so?

A. Well, we discharged some of that cargo from the after hatch on the port quarter after eleven o'clock.

Q. Can't you answer my question without telling what you were doing in the way of lightering at various places? Wasn't lightering going on all of Tuesday night, all of Wednesday night—

A. Not all of Tuesday night.

Q. How much of Tuesday night?

A. We knocked off about two o'clock.

Q. And you started in again when?

A. In the morning.

Q. Wednesday morning at daylight? [3157—2326]

A. I won't say daylight, exactly; somewhere

(Testimony of J. F. Haglund.)

about six or seven o'clock.

Q. When did you begin lightering on Tuesday?

A. So near as I can remember, it was before eleven o'clock in the forenoon. I couldn't state to the minute.

Q. About eleven o'clock in the forenoon?

A. Yes.

Q. And that lightering was practically constant from eleven o'clock on Wednesday forenoon until two o'clock, after midnight of Tuesday?

A. Excepting for the time which was occupied in giving the men their meals.

Q. In other words, for from thirteen to fifteen hours your men were engaged in the lightering in the manner that you have described, cargo from the "Celtic Chief" at her sides, from eleven o'clock Tuesday until two o'clock after midnight on Tuesday, a period of from thirteen to fifteen hours?

A. Yes.

Q. And you began after six on Wednesday?

A. About that.

Q. About seven o'clock? A. About that.

Q. And kept it up until about one or twelve, at least?

A. There was an interval at noon for their meals. They had been putting the "Arcona's" lines alongside.

Q. How long was it that you stopped operations on noon of Wednesday?

A. I couldn't state the time.

Q. An hour or two? A. I couldn't state.

Q. You were approximately ten hours, at least, in

(Testimony of J. F. Haglund.)

the daytime of Wednesday, your vessels were engaged, were they not, in taking the cargo from the "Celtic Chief"? A. Well, I wouldn't state.

Q. Wouldn't it be approximately that time? [3158—2327]

A. I don't know how long they were. It was during the noon.

Q. Well, did you lighter as much as one hour on Wednesday?

A. We lightered the whole forenoon, practically, up to eleven o'clock.

Q. Did you lighter as much as one hour after that time before darkness of Wednesday?

A. One? More than that.

Q. Two hours? A. More than that.

Q. Three hours? A. More than that.

Q. Four hours? A. Yes.

Q. So at least eight hours during the daytime you were lightering? A. I think so.

Q. And probably more?

A. I wouldn't say that.

Q. Adding these eight hours to the thirteen to fifteen you have twenty-one to twenty-three hours accounted for. Then from darkness, about half-past six o'clock, until eleven o'clock? A. After eleven.

Q. Until after eleven o'clock. About eleven-thirty? A. Approximately about that time.

Q. During a period of five hours approximately, is that right? A. Approximately.

Q. So that altogether, adding that to the other periods of time that you were engaged in the lightering, the Inter-Island boats were taking cargo along-

(Testimony of J. F. Haglund.)

side of the "Celtic Chief," practically constantly during a period of from twenty-six to twenty-eight hours; isn't that right?

A. I haven't figured that out.

Q. Haven't you heard me figure them up right now? Didn't you testify a few minutes ago that up to darkness Wednesday night, the Inter-Island vessels had been taking cargo from the "Celtic Chief" for an aggregate period of from twenty-one to twenty-three hours? [3159—2328]

A. On Wednesday night?

Q. Up to darkness of Wednesday night.

A. I have given you the figures so near as I possibly can, but I haven't added them up together.

Q. From eleven o'clock on Tuesday until two o'clock after midnight of Tuesday, would be a period of from thirteen to fifteen hours, would it not?

A. That would be fifteen hours.

Q. And on Wednesday, during daylight, eight hours, at least? A. I think so.

Q. That would make twenty-three hours?

A. Yes.

Q. And then five hours on Wednesday night could make twenty-eight hours altogether?

A. Approximately, yes.

Q. Then, for twenty-eight hours in the aggregate, the Inter-Island boats, by means of shore boats, were taking cargo alongside of the "Celtic Chief" in the way that you have described, and, as far as you know, although you were there practically throughout the whole operations and in general supervision of all the Inter-Island work, you know of not one



(Testimony of J. F. Haglund.)

single person being injured through the swells in the course of the lightering and not one boat being damaged by capsizing, isn't that right?

A. So far as I know it is right, yes.

Q. As a matter of fact, you were satisfied that it was unnecessary to take any additional precaution to that you already took to look out for your men and boats? A. I wasn't satisfied.

Q. Isn't it a fact? A. I certainly was not.

Q. Did you take any additional precaution?

A. I did.

Q. What additional precaution? [3160—2329]

A. I had told all the men to be careful.

Q. I'm asking you if you didn't think it was sufficient for your men and boats to take the precautions they did take that night. Don't you regard it as sufficient and didn't you regard it as sufficient?

A. I did take precaution.

Q. I say, isn't it the fact that you regarded it unnecessary to take any precaution in addition to that which was exercised as directed by you throughout those lightering operations?

A. I don't know of any other precaution I possibly could have taken outside of what I did, caution the men to be careful.

Q. Have you testified to the precautions that were taken? Have you stated all the precautions that were taken? A. I don't know.

Q. Kindly state all the precautions that were taken.

A. I don't remember exactly what I have stated word for word.

(Testimony of J. F. Haglund.)

Q. Let's have now a recapitulation of all of the precautions that were taken for the purpose of insuring the safety of their men and boats in the lightering operations out there. Begin again and tell us what was done in order to look out for their safety.

A. I don't understand what counsel means.

Q. You know what precaution means?

A. Yes, I think so.

Q. And you know what danger and safety mean?

A. I think so.

Q. And you understand also that you had certain men on the boats out there, lightering? A. I do.

Q. Now, then, kindly state all of the precautions which you say you took, which were exercised for the purpose of looking out for the safety of the men and boats which [3161—2330] you had at work out there. Now, sum them up.

A. If you allow me to hear what I have already stated, probably I could remember them, tell you if there was any more that I have forgotten.

Q. I want you now to state all of them.

A. You have to repeat the question that you have already asked.

Q. You know what was done there to look out for the safety of the men and the boats; now tell me what was done. A. I have stated that.

Q. I ask the Court to instruct the witness to answer my question.

The COURT.—That's a fair question, I think. I allow the question. Just in a general way.

A. I cautioned the men to be very careful in the

(Testimony of J. F. Haglund.)

handling of this cargo that there would be no accident occur in lowering this fertilizer in the boat which is not a common way, a practical experience among our men, you see, as in our Inter-Island steamers we get that fall on to the steam winch which can be lowered and lifted up very rapidly and altogether much safer than it would be in this case out at the "Celtic Chief," so I cautioned the men not, particularly, to be more careful not to lower the slings too low and strike the men in the boat or injure or capsize the boat, and I also told them to be very careful when they saw any big swells coming in to rather heave the boat astern a little than to run any unnecessary risk which, so far as I know, was observed and carried out.

Q. Anything else?

A. Not that I can think of.

Q. You didn't have a man stationed alongside the rail of the vessel to watch out for things and give signals?

A. I had two men at the rails, one to tend to that particular [3162—2331] purpose of lowering the slingload into the boat and also another man at the burthen fall to tend to that part of it.

Q. Now, is that as much as you cautioned them, all that you did.

A. I think that's about all I can think of and was necessary, too.

Q. How many tons of cargo in all were lightered from the "Celtic Chief" by the Inter-Island steamers by means of shore boats?

A. It was all the small boats *were* were using for

(Testimony of J. F. Haglund.)

that purpose, Mr. Olson.

Q. Aren't those shore boats? Aren't they ordinarily called the Inter-Island steamer's shore boats?

A. We don't call them that, steamer boats.

Q. Kindly understand when I've referred to shore boats in the past I have referred to the small boats. Now then, state how many tons of cargo were taken out of the "Celtic Chief" by the Inter-Island vessels by means of these small boats?

A. I don't remember exactly the figure in tons and pounds, but approximately between three hundred and fifty and four hundred ton.

Q. Three hundred and fifty to four hundred ton?

A. Approximately.

Q. Well, taking the smaller figure, three hundred and fifty as you have already testified, that those slingloads carried about half a ton to a sling that would mean, would it not, that there were at least seven hundred slingloads lowered into your small boats from the "Celtic Chief" in the course of your operations at the "Celtic Chief" by the Inter-Island Steam Navigation Co.

A. I don't know. You are a better mathematician than I am.

Q. If there were three hundred and fifty tons of fertilzer [3163—2332] and a half ton to a slingload, that would be seven hundred slingloads?

A. Seven hundred.

Q. And there was?

A. I wouldn't state that every sling there was half a ton in.

Q. Approximately seven hundred slingloads at

(Testimony of J. F. Haglund.)

least? A. Approximately that, yes.

Q. Each one of which was lowered inside a boat and no man was injured as far as you know and no boat was injured as far as you know, or capsized?

A. Not to my knowledge, no.

Q. That is, what you mean to say is that there was no such injury so far as you know.

A. If there was, I certainly should have heard of it.

Q. And you didn't hear of it? A. I did not.

Q. About twelve hours or so of the lightering that you have spoken of was carried on in darkness, was it not? A. That I haven't figured out.

Q. If darkness fell at about half-past six of Wednesday night and you carried on these operations until two, you would have about seven hours or so of lightering Tuesday night?

A. Approximately.

Q. And five hours on Wednesday night, isn't that right—from half-past six to half-past eleven?

A. Approximately that.

Q. And five and seven are twelve? A. Yes.

Q. So you had about twelve hours of lightering in darkness out of the twenty-eight, the aggregate period of lightering of the Inter-Island Steam Navigation Company? A. That is right.

Q. Did you see any of the "Celtic Chief" anchors?

A. I may have seen them; I don't remember.

[3164—2333]

Q. Well, do you know whether you did or did not?

A. I couldn't possibly state so, no.

Q. You don't remember? A. No.



(Testimony of J. F. Haglund.)

Q. Well, you are familiar with sailing vessels of that character, aren't you?

A. I'm familiar with them.

Q. And you know that they all carry anchors about the same size? A. Approximately, yes.

Q. And what was the size for any vessel of that character? A. Four or five thousand pounds.

Q. Two tons or over? A. About that.

Q. One port anchor and one starboard anchor, isn't that right, bow anchors?

A. As a rule, we carry a spare bow anchor. I don't know what she had.

Q. And they also have a starboard anchor and a port anchor? A. Yes.

Q. And also another, spare anchor?

A. As a rule, we have a spare bow anchor.

Q. Is it possible to carry a two-ton anchor in a small boat? A. Not in one boat.

Q. Rowboat? A. Not that size.

Q. It could be done with two boats?

A. It could be done with two boats.

Q. Using them together?

A. Into a catamaran the same as we do landing machinery. We often lash two or three boats together.

Q. A small scow could have taken it out?

A. If the scow had been of sufficient size, but I don't know as it could have gone over the "Celtic Chief's" bow and taken the anchors off, because the swell was too much there and just about where it was breaking, and it wouldn't be safe to put a scow or boats there for that purpose. [3165—2334]

(Testimony of J. F. Haglund.)

Q. It wouldn't?      A. No, it would not.

Q. Well, anchors, two-ton anchors, can be obtained in Honolulu without any difficulty?      A. Two-ton?

Q. Yes.

A. Well, there's not many of them, I don't think.

Q. The Inter-Island Steam Navigation Company, in its chandlery department, has some anchors a little larger than that?

A. They have a three-ton.

Q. And those are a part of their stock in trade, aren't they?

A. We got two heavy anchors, I did mention them; they are kept in store for the purpose of the cable landings up along Hawaii.

Q. What are the largest anchors that the Inter-Island has in stock for sale?

A. Well, they have sold them big ones.

Q. How large are those anchors?

A. Somewheres around ten thousand pound, I should think.

Q. Five tons?      A. About that.

Q. Now, steel cable is also available and also anchor chain, is it not?      A. Yes.

Q. In Honolulu for sale?      A. Yes, sir.

Q. Now, it wouldn't have been a matter of any considerable difficulty, would it, to have procured a large anchor like that, also a sufficient quantity of chain or cable to attach to the anchor and have taken a scow and taken that anchor, carried that anchor out to the "Celtic Chief" operations?

Mr. WARREN.—Now, I object to that question as not proper cross-examination.

(Testimony of J. F. Haglund.)

The COURT.—Objection overruled. (Question read.)

Mr. WARREN.—If it's directed to Inter-Island possibilities, then I say I haven't said a word about the Inter-Island doing this.

Mr. WEAVER.—I object to that now on the ground it is not proper cross-examination. [3166—2335]

Mr. OLSON.—There have been so many objections that I now wish to reframe the question. It wouldn't have been a matter of any great difficulty or particular difficulty to have taken an anchor of the kind that you have described and sufficient steel cable, or anchor-chain to attach to the anchor, by means of a scow out to the "Celtic Chief" operations and there have laid it a sufficient distance away from the "Celtic Chief" so as to have given it towing possibilities?

Mr. WARREN.—I object to the question as indefinite. It's a repetition of part of the other question and in other respects it is not.

Mr. OLSON.—I'll offer to reframe the question again. Without referring particularly to the Inter-Island Steam Navigation Company or any other concern, Captain, it wouldn't have been a matter of any special difficulty, would it, to have procured an anchor of the kind which I have described which you say is available here in Honolulu and anchor-chain of sufficient length or cable of sufficient length for that anchor, which you say is also available, by means of a scow out to the scene of the "Celtic Chief" operations and there have laid it a proper distance, accord-

(Testimony of J. F. Haglund.)

ing to your judgment, from the "Celtic Chief," and have attached those lines or chains to the "Celtic Chief" and thus have further means of preventing the "Celtic Chief" from being swung out around broadside on the reef.

Mr. WARREN.—Now, I object to the question as indefinite and not proper cross-examination. In part of it counsel has deliberately ignored that part of it to which I objected before and which he said was understood.

Mr. WEAVER.—I object to it on the ground that it is not proper cross-examination and that the question is indefinite in this, that it may apply either to the Inter-Island or the ship. [3167—2336]

Mr. WARREN.—Object to that as not proper cross-examination.

The COURT.—Objection overruled.

Mr. OLSON.—Now, then, answer the question, Captain.

A. It would have been difficult because there was no anchors to be had in Honolulu, to my knowledge, at that time.

Q. Do you mean to say that the Inter-Island did not have anchors at that time? How large anchors did it have in stock for sale at that time?

A. Approximately a ton.

Q. Is that all?

A. That's all we generally carry in stock in our stores.

Q. What's the heaviest anchor that the "Mauna Kea" carries?

A. They are on board the "Mauna Kea."

(Testimony of J. F. Haglund.)

Q. What is the heaviest? A. Two.

Q. Do you mean to say that the Inter-Island does not carry in stock down here anchors of a size sufficient for the "Mauna Kea"?

A. She got a spare anchor on board.

Q. And so, if she should loose that also, do you mean to—

A. I told you we carry a spare anchor for her. We got two spare anchors.

Q. I say, suppose that the "Mauna Kea" had lost all of her anchors, special and ordinary also; do you mean to say that the Inter-Island wouldn't have anchors for her?

A. I already stated we carry two spare ones on board the "Mauna Kea" and if she lost the four of them we have no more anywhere.

Q. And the Inter-Island didn't have down here in the chandlery department and its warehouse, any anchors of that size? A. No, it did not.

Q. Are you willing to swear that the Inter-Island Steam Navigation Company, in Honolulu, did not have an anchor as large as two tons?

A. I am willing to swear to that. [3168—2337]

Q. When were these five-ton anchors procured?

A. Months after, probably a whole year after, if I remember, after the "Celtic Chief" operations, we got them two big anchors.

Q. Do you know whether or not the Pacific Mail Steamship Company has a warehouse in Honolulu, and whether they keep any anchors there? You know that, do you?

A. As far as I know they have not.



(Testimony of J. F. Haglund.)

Q. What about the Matson Navigation Company?

A. Not to my knowledge.

Q. Do you mean to say there was not another two-ton anchor in Honolulu?

A. Not to my knowledge, but the "Mauna Kea's."

Q. You know that Miller had a five or seven-ton anchor?

A. They used that at the "Celtic Chief."

Q. You know that he had it, don't you?

A. Not in Honolulu, it was out at the "Celtic Chief."

Q. You know he had it at the "Celtic Chief" then?

A. Yes, I know. The weight of it I couldn't state. I believe it was over two-ton, yes.

Q. Well, Captain, there were one-ton anchors available, were there not?

A. There was and we used them.

Q. How's that?

A. And we were using a number of them.

Q. And the Inter-Island Steam Navigation Company, in its chandlery department, carried, at that time, a number of one-ton anchors?

A. A good many, I don't remember the number of them.

Q. And they were sold weren't they?

A. They were for sale.

Q. You have stated, have you not, Captain Haglund, that the two anchors that were used by the "Helene" were laid the same distance as one anchor and would be equal to one anchor of the same weight of the two? A. Yes. [3169—2338]

Q. They would be capable of doing just as well.

(Testimony of J. F. Haglund.)

You've so stated, haven't you? A. I think so.

Q. Wouldn't it have been possible to have taken four or five one-ton anchors by means of a scow in the way that I have stated, with anchor-chains or steel cables, all attached to the same thing out at the "Celtic Chief" operations? I am not now referring to the Inter-Island Steam Navigation Company or any other particular concern, and at the "Celtic Chief" operations have laid those anchors at a considerable distance away from the "Celtic Chief," far enough away to meet with your personal, from an expert standpoint, and have brought those lines or cables or chains aboard the "Celtic Chief" and there have made those fast, and thus have prevented the "Celtic Chief" from swinging around broadside on the reef so that the danger of being bilged would have been eliminated, the danger of being bilged from being thrown broadside would have been eliminated?

A. I couldn't say so. I couldn't state how many anchors there were.

Q. I am assuming there were four or five of these anchors available and if they were if they wouldn't have been able to?

Mr. WARREN.—I object to that as improper.

Mr. OLSON.—I wish to supplement that last question by asking you this question: Are you prepared to say that the Inter-Island Steam Navigation Company had five anchors in stock?

A. I don't know how many.

Q. You know they had some, don't you?

A. I do.

Q. Did they have two? A. Oh, yes.

(Testimony of J. F. Haglund.)

Q. Did they have three? A. Yes, I guess so.

Q. Did they have four?

A. I couldn't tell you how many.

Q. Don't you know they had four or five at least?

A. I couldn't possibly state how many.

Q. Don't you think they had that many?

A. I couldn't state the number. Sometimes our stock runs down. [3170—2339]

Q. Don't you know that four or five or six one-ton anchors could have been easily gathered together in Hawaii? A. I won't state so.

Q. Do you mean to say they wouldn't?

A. I won't state that wouldn't be possible.

Q. You don't think so? A. I say no.

Mr. OLSON.—Then, I offer to prove, if the Court please, that there were at least six such anchors, if not larger ones, that could have been procured at that time in the market by purchasing the same. Now, then, Captain Haglund, answer my question, whether or not that wouldn't have been a practical way of keeping the "Celtic Chief" from being swung broadside on the reef. A. As it was, we had—

Q. Answer my question. I want to find out if that wouldn't have been a practical way.

A. We used a practical way as it was.

Q. That isn't the point. I'm now asking you if that wouldn't have been a practical way to have prevented the "Celtic Chief" from being swung broadside on the reef, to have a number of anchors out and put them in the way that I have described to you, would it or would it not be a practical method?

A. If the anchors was already in use out there

(Testimony of J. F. Haglund.)

couldn't hold the "Celtic Chief," I don't think in this particular case that two or three more would have done it because we could not have laid them. It wouldn't have been a possibility to get anchors aboard of that ship if the swell had raised up any higher than it was. That's how I claim that that wouldn't have been practical.

Q. Well, under the conditions that prevailed out there as to sea and wind, wouldn't it have been perfectly practical to have kept the "Celtic Chief" from going broadside on the reef?

A. We did keep her from going broadside on the reef. [3171—2340]

Q. That isn't the point. Kindly answer my question as to whether or not that would have been a practical way. Don't avoid the question I'm asking you. I want to know if that would be a practical way.

Mr. WARREN.—I object to remarks of that sort in the first place, and in the second place I say that the witness has already answered the question and it's nothing more or less than a question already asked and answered. I move to strike from the record counsel's statement to the witness, "Now, you stop avoiding my questions."

The COURT.—I'm not considering—I'm drawing conclusions, of course, as to the character of the witness and his attitude. All that is, of course, in a certain way, argumentative. Mr. Olson is entitled to have the question answered if it isn't answered by the witness, though I think the polite method would be to apply to the Court.

(Testimony of J. F. Haglund.)

Mr. WARREN.—I understand my motion is denied.

The COURT.—I'm not sure that the witness clearly understood the question or that he avoided the answer deliberately or anything of that sort. It's clear, of course, that he didn't answer it. Mr. Olson was endeavoring to get a general statement while the witness was taking the special, referring to these special conditions.

Mr. WARREN.—I'll accept that view of the Court and proceed.

Mr. OLSON.—Very well then, answer my question, Captain Haglund.

Captain Haglund, now kindly answer the question whether or not that would have been a practical way of keeping the "Celtic Chief" from going broadside on the reef.

A. It would not have been the most practical way.

Q. That isn't the answer that you are asked to give. Kindly state whether or not it would have been a practical way entirely aside from the question— [3172—2341]

A. It would not have been a practical way when there was other available just as effective and more quicker ways to be had.

Q. Leave that out of consideration. Would that have been a practical way?

Mr. WARREN.—Object to the question as asked and answered.

The COURT.—The question is not answered yet.

A. It would if there was no other agencies available.



(Testimony of J. F. Haglund.)

Q. Don't you know, Captain Haglund, that the way in which the "Manchuria" was brought off of the reef on the other side of the Island was by means of anchors and that they had six or seven anchors laid out there and practically she was brought off by means of so many anchors?

A. It was the help of the towing steamers.

Q. What towing steamers were there?

A. The cable steamer and the "Manning."

Q. Don't you know that the work that was done there was by means of anchors?

A. Undoubtedly.

Q. And that they had six or seven or more anchors laid? A. I don't know how many.

Q. Don't you know that out at the "Sheridan" there was, they had a large number of the anchors laid which were being heaved in on for the purpose of bringing her off? A. I do.

Q. You know that was the chief means of getting her off?

A. But the "Sheridan" was not on the shore.

Q. Can't you confine yourself to the question that I'm asking you, whether or not it was the chief means of getting her off?

A. It was, I acknowledge that. In addition I say that all anchors that were put around the "Sheridan" would not possibly pull her off unless it was light enough, discharged and lightened.

Q. It's your opinion, is it not, that the "Intrepid," and the [3173—2342] "Mikahala" and the "Likelike"—I'm now expressly leaving out of account the Miller anchor—and the "Helene" and

(Testimony of J. F. Haglund.)

the "Mauna Kea," that those three vessels would have been able to have kept the "Celtic Chief," under conditions that prevailed out there, from canting around broadside on the reef?

A. I don't know whether they could or not.

Q. What is that?

A. I don't know whether they could or not.

Q. You don't know?      A. No.

Q. It would have been easier to keep her from canting around broadside than it would to have pulled her off the reef. In other words, it would have been easier to keep her straight in line directly on the reef than to have actually pulled her off the reef?      A. I think so.

Q. You think so?

A. I think it would be probably easier to keep her in position than to pull her off.

Q. Well, then, don't you know that with one or two one-ton anchors laid out astern, a little bit, and somewhat to the starboard, would hold, would have been all that was necessary to keep her from canting broadside on the reef?      A. I would not say so.

Q. Don't you believe so?      A. I don't.

Q. What was it that kept her from going broadside on the reef?

A. It was the agencies of the "Helene," in addition to her steam power, her two anchors laid out a great distance and acting exactly as a mooring and there was the power of the "Mikahala's" towing in addition to that.

Q. Now, then, don't you think that the "Helene's" anchors would have been much more effective in

(Testimony of J. F. Haglund.)

keeping her from canting broadside on the reef if, instead of being laid to the port side of the "Celtic Chief" they had been to the starboard side of the "Celtic Chief"? A. Well—

Q. Isn't that so?

A. It probably would have made [3174—2343] a little difference but it was so near astern it wouldn't have made material difference.

Q. How many points to stern?

A. Only one point.

Q. And that's eleven degrees?

A. Eleven degrees and a half.

Q. Now, then, that means that she was, if anything, tending to pull the "Celtic Chief" further to broadside, to her port, than otherwise?

A. Well, if anything.

Q. So that, if it had not been laid even that small angle, one point to starboard of the "Celtic Chief," it would have had a better tendency, or greater tendency, to prevent the "Celtic Chief" from canting broadside on the reef; isn't that true?

A. Yes, that's true. In the positions them boats were already occupying the "Helene" couldn't get on the starboard quarter.

Q. Leave the "Mikahala" out of account. Suppose the "Mikahala" hadn't been there, wouldn't the "Helene" have been in a better position?

A. If no other agencies had been there I admit it would have been better if the "Helene's" anchor had been placed a point to windward of the "Celtic Chief" rather than to leeward. I admit that.

Q. Now, then, what were the sizes of the

(Testimony of J. F. Haglund.)

"Helene's" anchors?

A. The "Helene's" anchors were approximately two thousand pounds each.

Q. One-ton anchors, weren't they?      A. One ton.

Q. If there had been two one-ton anchors laid at an angle to the "Celtic Chief" with lines attached to her, wouldn't they have been effective to keep her from going broadside on the reef?

A. That all depends what purchase had been put on them anchors.

Q. Don't you think it would have been possible to have [3175—2344] put a purchase there not nearly as complicated as was the Miller Salvage Company's and then by means of the winch to have heaved in on those tackles and kept her from going broadside on the reef? Don't you think it would have been possible with the donkey-engine, the McCabe, Hamilton & Renney donkey-engine?

A. They had to put that donkey-engine on board the ship.

Q. Couldn't that have been done?

A. Yes, but during that time the "Celtic Chief" would have time to go half a dozen times on the reef.

Q. You think it would have time for that?

A. Perhaps it would not take long for the "Celtic Chief" to go on the reef if no agencies had been there.

Q. How heavy was the donkey-engine, would you say, that was brought out on that scow?

A. I couldn't possibly state the exact weight of it.

Q. As near as you can give.

A. Maybe seven tons.

(Testimony of J. F. Haglund.)

Q. It wouldn't have been a serious matter to have brought that on board? A. I don't think so.

Q. If it had been brought on the "Celtic Chief" it could have been used for the purpose of heaving in on anchor-chains quite easily?

A. I wouldn't state that.

Q. It could be done without any serious difficulties? A. It could be done.

Q. So that, it would have been a fairly simple thing to have heaved, to have gotten anchor-chains to two one-ton anchors at the angle of the "Helene"?

A. Not so very simple.

Q. It could have been done without serious difficulties?

A. Under the conditions it could have been done.

Q. If that could have been done, it could have been done on Monday?

A. I don't know. I wasn't [3176—2345] out there at all times on Monday.

Q. Under the conditions that prevailed while you were out there?

A. I couldn't state positively that it couldn't be done.

Q. Don't you think it could have been done?

A. Perhaps it could.

Q. Couldn't it have been?

A. I wouldn't positively say.

Q. What do you think? Do you or do you not think it could have been?

A. I think it could have been done if it had to be done.

Q. All that they would have to do, wouldn't it,



(Testimony of J. F. Haglund.)

would be the rigging of a purchase-tackle or not more than one tackle, on board the "Celtic Chief" and getting a donkey on board of the kind that was used by the Inter-Island brought out from McCabe, Hamilton & Renney, attach the tackle to the chain and it could then heave in?

A. Well, and in the meantime what would have become of the "Celtic Chief"?

Mr. OLSON.—Move to strike that last statement of the witness on the ground it is not responsive.

The COURT.—I order it stricken.

Q. How long did it take the Miller Salvage Company to get its anchor laid and its line aboard the "Celtic Chief"?

A. I couldn't state the exact time.

Q. Well, about. Remember, Captain, I'm not asking you to state exactly unless you are able to do so. In each case I want you to state approximately or exactly whichever it happens to be possible for you to do.

A. So far as I know it took half the whole day and then they didn't have the line taut.

Mr. OLSON.—I move to strike the last statement of the witness on the ground it is not responsive.  
[3177—2346]

Mr. WEAVER.—I move that be stricken out as not responsive. I think the whole answer ought to be stricken out.

Mr. WARREN.—I object to the whole—

Q. State, Captain Haglund, how long it took, approximately, as near as you can tell, for him to get his anchor laid and the anchor line aboard the "Celtic Chief." I am not now speaking of getting taut.

(Testimony of J. F. Haglund.)

A. Well, I don't remember the time when that line came aboard, whether that was morning or noon or afternoon.

Q. Don't you know that Captain Miller started to take the anchor from the first position to the second after daylight of Wednesday? A. I know that.

Q. Don't you know it was after eight o'clock?

A. No, I don't.

Q. Was it about eight o'clock?

A. I couldn't positively say.

Q. Was it about seven or eight?

A. It was before seven o'clock when he left the "Celtic Chief," but how long it took him to lift that anchor up and go down and get the line I can't possibly state.

Q. Don't you know that having left the "Celtic Chief" about seven o'clock or earlier that he had his anchor laid and the anchor line actually on board of the "Celtic Chief" somewhere in the neighborhood of noon?

A. I've said I don't know whether it was morning or noon or afternoon. It may have been as late as one o'clock; may have been earlier than that.

Q. Well, it was about noon, within an hour or so on either side?

Mr. WARREN.—I object to that as asked and answered.

A. I don't think that line was aboard before noon but it may be possibly aboard there after noon, maybe an hour, maybe two hours. [3178—2347]

Q. Don't you remember it was more than two or three hours? A. I don't remember.

Q. Don't you remember that it was on board the

(Testimony of J. F. Haglund.)

"Celtic Chief" by the middle of the afternoon on Wednesday? Do you mean that you don't remember now? A. Oh, I was—

Q. Isn't three o'clock about the middle of the afternoon? A. I didn't say three o'clock.

Q. It was on at least by three o'clock, wasn't it?

A. Yes.

Q. And that was an anchor over five tons?

A. I don't know the weight of it.

Q. You saw the anchor?

A. I seen the anchor but I never saw it weighed.

Q. You can tell from its size. It was a large anchor?

A. It was a large anchor, but the weight—

Q. It was at least four times as large as an ordinary one-ton anchor? A. I think it was.

Q. An anchor as large and bulky as that would be more difficult to handle than a one-ton anchor; more difficult to lay and carry around?

A. That all depends on how it's handled; maybe an anchor twice as heavy as another anchor and maybe laid more easily.

Q. I'm asking under the same conditions?

A. Under the same conditions, yes, it certainly would.

Q. How long did it take the "Helene" to get her anchor chains taut? A. Just a few minutes.

Q. What kind of an engine did it use for the purpose of heaving in on those chains?

A. Steam engine.

Q. What kind of an engine?

A. I don't know what you call it.

(Testimony of J. F. Haglund.)

Q. Is it a donkey-engine?

A. An independent windlass and engine combined; we connected with her steam engine.

Q. Use any purchase-tackles?

A. Nothing else but the [3179—2348] windlass.

Q. Just describe that windlass, please.

A. How do you mean by describe?

Q. Tell what it is.

A. It's a steam windlass with gypsy-heads on her and also tubes, I judge two feet, over a foot, as the windlass was hove in the chain come in accordingly.

Q. Do you know the horse-power of that windlass?

A. Approximately forty-five.

Q. Do you know the horse-power of the McCabe, Hamilton & Renney donkey?     A. I don't know.

Q. Didn't you see the engine itself?     A. No.

Q. You didn't see it?     A. I saw the boiler.

Q. Have you no means of judging how powerful an engine it was?

A. I have not. I'm not very familiar with engineering. It is out of my line of business and I don't care to go into anything I don't understand.

Q. Well, you know, don't you, that there are a number of donkey-engines in Honolulu with a horse-power of forty-five horse-power that are available?

A. I couldn't state.

Q. You can't state that?

A. I can't state that. I don't know.

Q. Well, if a donkey-engine of forty-five horse-power were rigged up on the deck of the "Celtic Chief" and anchor-chains from two one-ton anchors

(Testimony of J. F. Haglund.)

had been run aboard the "Celtic Chief," with such an engine, with a donkey-engine of that forty-five horse-power, it would have been possible to have hove in those anchors?

Mr. WARREN.—I object to that as improper.

Mr. OLSON.—I offer to prove that such a donkey-engine [3180—2349] was available in Honolulu at that time.

The COURT.—I think that's a fair test.

Mr. OLSON.—Now, answer the question. With a forty-five horse-power engine, an engine just as powerful as the appliance, engine, which was used for heaving on those anchor-chains, rigged on the "Celtic Chief," wouldn't it have been possible to have gotten anchor-chains to two one-ton anchors laid to the, anywhere on the "Celtic Chief," as taut as the "Helene's" anchor-chains?

A. I couldn't tell you that.

Q. You don't know? A. I don't know.

Q. Why don't you know?

A. Because I don't know how that could be rigged to get that same power on the "Celtic Chief."

Q. Well, if it could have been rigged on the "Celtic Chief" in such a way that its forty-five horse-power, just as the "Helene's" horse-power, was available, wouldn't it have been quite possible to have gotten those chains as taut as the anchor-chains of the "Helene's" anchor-chains were?

A. Not in the same length of time.

Q. After the engine was rigged?

A. If it could be rigged.

Q. And after it had been rigged?



(Testimony of J. F. Haglund.)

A. No, not the same length of time.

Q. Why not?

A. Because the "Helene's" windlass revolved probably a hundred and odd revolutions a minute.

Q. Would it have been possible to have gotten a windlass on board of the "Celtic Chief" of the same kind to operate in connection with the donkey-engine? A. No, I won't state so.

Q. Well, if it had been possible?

A. I don't know where they could have placed it. I don't [3181—2350] think so.

The COURT.—Mr. Olson, I understand you are going to prove that they were available.

Mr. OLSON.—Yes, certainly.

Q. Now, then, Captain Haglund, if they had taken another it would have been possible in the course of a few hours, at any rate, to have gotten this other engine on board the "Celtic Chief"?

A. Quite a few hours.

Q. Within a few hours?

A. Within a few hours.

Q. Within a day?

A. I know they couldn't have got that windlass fastened—

Q. I say, after the appliances are rigged on board the "Celtic Chief," after they are rigged and in shape, couldn't the anchor-chains have been hove in as taut as the "Helene's" within a comparatively short period of time?

A. If all similar appliances had been available.

Q. The donkey-engine you say would operate as rapidly as your windlass?

A. I don't understand what you mean, Mr. Olson.

(Testimony of J. F. Haglund.)

Q. Did the "Helene's" engine operate by means of a gypsy-head—did it have a gypsy-head around which the anchor-chain wound? A. No.

Q. Explain.

A. I have already stated that.

Q. Let's have it again.

A. A windlass of this class is made up of four different valves, the larger gypsy-head and the two which is fixed to fit the links of the chain so as fast as it is revolved the chain is coming in.

Q. Well, go on.

A. That's all I can state.

Recess.

Q. You say you had a number of donkey-engines out at the "Sheridan" while the "Sheridan" was on the reef or ashore, rather. Who had charge of those salvage operations, the anchors, I mean?

A. A man from the coast that [3182—2351] come down the latter part of the time he was out there. I can't recall his name.

Q. Well, did they manage to get those anchor-chains taut or the cables that were used in connection with those anchors taut?

A. There were no cables used.

Q. What did they use in connection with their anchors? A. Wire.

Q. Did they manage to get those taut?

A. Yes.

Q. How did they do it?

A. With purchases they rigged up.

Q. And those were operated by means of tackles?

A. Steam donkey.

(Testimony of J. F. Haglund.)

Q. Do you know how long it took Miller to get his purchase rig on board of the "Celtic Chief"?

A. I couldn't tell you.

Q. Don't you know that was all rigged by evening of Wednesday?

A. I know it was rigged on Wednesday evening, yes.

Q. Do you know how long it took?

A. How long it took, I don't know.

Q. And if it hadn't been so big and complicated, it could have been rigged in a short time?

A. Yes.

Q. Now, when they were rigging any of those lines out there at the "Sheridan," they had a donkey operating for each line, didn't they? A donkey-engine for each line, didn't they? Each wire line?

A. Well, they had—I cannot state they had. They may have used two falls to every winch, you see, and fixed, put each fall on two different wires, because they were so many rigged out there that I don't remember now. [3183—2352] How many donkeys they were I don't remember. How many wires or how many anchors, I don't know. There was a great number of them?

Q. With a donkey such as they had on the "Sheridan," which were all brought from Honolulu—

A. No, they were brought from San Francisco.

Q. All of them?

A. So far as I know, they were brought from San Francisco.

Q. How do you know they were?

A. I saw them come in the transport.

Q. You've seen similar donkeys here?

(Testimony of J. F. Haglund.)

A. I won't say.

Q. All of them were similar donkeys of that general kind? A. Yes.

Q. And there are in Honolulu at all times—

A. Yes, there are some of them.

Q. McCabe, Hamilton and Renney have a number of donkeys?

A. They have a number of donkeys, but whether they are so powerful, I couldn't positively state.

Q. But McCabe, Hamilton and Renney, the stevedore concern, have a number of donkey-engines of *various and* sizes?

A. Approximately the same size and power, so far as I know.

Q. Now, a purchase tackle could have been rigged on the "Celtic Chief" on Monday, could it not, and a donkey-engine placed aboard to operate the purchase tackle which would have been sufficient to make cables or lines running out to these two anchors that I have suggested being laid at an angle, sufficient to make them taut, couldn't they?

A. Well, I couldn't state whether they could or not.

Q. Don't you think so according to your best judgment?

A. I don't think it would be an impossibility by any means. [3184—2353]

Q. If the blocks and lines had been available and if the donkey-engine had been available, it could have been done according to your best judgment?

A. I think it could have been done.

Q. Yes, all on Monday. Now, with two anchors rigged in that fashion, if it had been done on Mon-

(Testimony of J. F. Haglund.)

day, it would have, according to your best judgment, have prevented the "Celtic Chief" from canting around broadside on the reef under the conditions that prevailed there up to Wednesday night when she finally came off?

A. I couldn't tell whether it would or not.

Q. According to your best judgment?

A. I hardly think so.

Q. You think the wind and currents would have been sufficient to have carried those lines away or to have broken the anchors and made them drag?

A. Not the wind and current alone, but the wind and current and the swell combined.

Q. Did it make the "Helene" anchors drag?

A. No.

Q. What was it that prevented the "Celtic Chief" from canting around directly in line with the "Helene" so that she would have been, instead of one point to the leeward, she would have been directly astern?

A. That angle and that distance, Mr. Olson was very slightly—

Q. What prevented it?

A. The "Mikahala" and the "Intrepid" being on the quarter and they the "Mikahala" and the "Intrepid," pulling on their propellers alone were sufficient to prevent the "Celtic Chief" from canting around.

Q. Although you don't think these two one-ton anchors would have accomplished that same result?

A. Because it would have been less then the agency that was out there. [3184—2354].

Q. You think that two one-ton anchors laid with



(Testimony of J. F. Haglund.)

strong steel cables, cables as strong as the "Mikahala's" line and the "Intrepid's" line, or stronger, would have been insufficient to prevent her canting around to the reef or to port although the "Mikahala" and "Intrepid" were sufficient to prevent her from so canting around so she would have been directly in line with the "Helene"?

A. It might have been.

Q. Now, from all your experience and your best judgment and your common sense, don't you know if the "Mikahala" and the "Intrepid" by means of their propellers alone were able to keep the "Celtic Chief" from canting around in that way, don't you know that two one-ton anchors laid with lines as strong as the lines of the "Mikahala" and the "Intrepid," would have been sufficient to do the same thing?

A. I don't say the "Mikahala" and the "Intrepid" kept her.

Q. What did keep her?

A. The "Helene's" moorings.

Q. Didn't you say that the "Helene" was one point to lee?

A. That angle is so small that the "Mikahala's" bigger anchor and the "Intrepid's" would overcome it.

Q. Don't you know that the "Mikahala" didn't use her anchor for the purpose of holding the "Celtic Chief" at all?

A. That didn't prevent her from using it for—

Q. Don't you know the fact to be that she didn't use it for that purpose?

(Testimony of J. F. Haglund.)

A. No, I won't state it wasn't for that purpose.

Q. Who was the captain of the "Mikahala"?

A. Captain Tullock.

Q. And if Captain Tullock testified as you heard him testify here, that her anchor was used for the purpose of pulling on the "Celtic Chief," are you prepared to say that he was incorrect in so stating? [3186—2355]

A. No, I'm not.

Q. Are you prepared to say that the "Mikahala" did use her anchor for holding the "Celtic Chief"?

A. I could not state that Captain Tullock was right or wasn't; whether he hove in on that anchor at all or whether he lost the anchor.

Q. When was that she lost her anchor?

A. During operations.

Q. That was done when he attempted to heave it up?

A. That's heaving on the anchor.

Q. Is that what I was talking about when we were speaking of the matter of pulling on the "Celtic Chief"? Did you know he lost his anchor in the attempt to heave it up?

A. He never got within twenty fathoms of his anchor.

Q. Don't you know—

A. He put an extra strain on it.

Q. Don't you know Captain Tullock says he didn't use it that way?

A. It wasn't laid for that purpose.

Q. Don't you know Captain Tullock says he didn't use it that way?

A. I don't know.

Q. If he so testified are you prepared to say he was incorrect?

A. No.

(Testimony of J. F. Haglund.)

Q. You, of your knowledge, don't know that the "Mikahala" ever used the anchor for the purpose of pulling on the "Celtic Chief" except in so far as it hove in on that anchor when it broke it?

A. I do know I seen the "Mikahala's" chain taut ahead of her.

Q. You know that anchor was laid to windward of the "Mikahala"?

A. Exactly in the proper place it should have been laid in.

Mr. OLSON.—I move to strike the last statement on the ground it is not responsive. [3187—2356]

The COURT.—Motion granted.

Q. Now, you know, Captain Haglund, do you not, that if any of the Inter-Island steamers' towlines had broken that they could have hove in on their anchor chains, laid as they were, sufficient to prevent those steamers from colliding with any of the others. Don't you know that?

A. I don't know whether it would have been a great deal of room to spare. I don't think so. If the "Mikahala" would be clearing the "Arcona."

Q. If the "Mikahala" had been swept by the current down toward the "Arcona," don't you know that they could have hove in sufficiently on her anchor chain to prevent any damage through their coming together?

A. If the engine had been disabled what was to prevent the "Mikahala" from piling right on top of her?

Q. I'm asking you if you don't know, if the "Mikahala" line had parted and I'll add to that, and her

(Testimony of J. F. Haglund.)

towline gotten afoul of her propeller, don't you know that the "Mikahala" could have hove in sufficiently on her anchor chain to have pulled her clear of the "Arcona"? A. No.

Q. You don't think that was possible?

A. She would have dragged her anchor.

Q. She couldn't have done much towing by means of that anchor on the "Celtic Chief," if it had been insufficient to pull the "Mikahala" through the water without the anchor dragging.

A. She had thirty fathom of chain as it was, but in order to clear the "Arcona" she would have had to heave in considerable of that chain and she would have dragged her anchor and she would have drifted right down on top of the "Arcona."

Q. The "Arcona" wasn't using her propeller?

A. No.

Q. She could have gotten out of the way if there was danger?

A. She could not. [3188—2357]

Q. Didn't she start her propeller and get out of the way so that the "Celtic Chief" didn't hit her?

A. Not until the "Celtic Chief" was close on top her.

Q. How long did it take the "Celtic Chief" to travel the six or seven hundred feet? How long do you think?

A. It didn't take a great deal.

Q. How long do you think?

A. I don't know. I couldn't very well state that. I don't know what the rate of speed she could have gone.

(Testimony of J. F. Haglund.)

Q. Can't you give us an idea as to whether it took an hour or a minute?

A. Well, it took more than a minute and I said it didn't take so much as an hour.

Q. Was it nearer a minute or nearer an hour and half an hour?      A. Nearer a minute.

Q. Fifteen minutes.      A. Nearer a minute.

Q. Or ten minutes?      A. I think so.

Q. Five minutes?      A. That I couldn't state.

Q. Why didn't you say that at the start.

A. I don't know.

Q. Now, it was five minutes. Your best judgment is that it was?

A. My best judgment is that it was about that.

Q. And if the "Arcona" had attempted, or had observed the "Mikahala's" line broken, wouldn't it have been possible in three or four minutes time for her to get her propellers going and gotten out of the road?

A. We didn't have three or four minutes to spare there.

Q. That isn't what I asked. Could she have done it?

Mr. WARREN.—I object then, it's immaterial, your Honor.

The COURT.—I allow the question.

Mr. OLSON.—Answer the question. Couldn't she have done that in three or four minutes, the "Arcona"?

A. I couldn't state that. [3189—2358]

Q. You don't know.

A. If the commander of that ship had been on



(Testimony of J. F. Haglund.)

board the "Arcona" at the time, I don't think for a minute the "Celtic Chief" would have come anywhere near to her.

Q. I'm asking you if you think if the "Mikahala" had been observed by the "Arcona" to have broken her line, wouldn't it have been possible for the "Arcona" to have got her propeller going?

A. If the commander had been on board of the ship.

Q. Could she have done so?

A. Certainly, she could.

Q. So that any serious difficulty could have been avoided by the "Arcona's" getting out of the road?

A. I won't say that.

Q. You won't say that?      A. No.

Q. On your Inter-Island steamers, where is the engineer, the engineer who is on watch there, the chief or the assistant? Where is he supposed to be while he is on watch?      A. In the engine-room.

Q. And that is so he can obey any signal upon the signal being given?      A. Suppose to be; yes.

Q. Isn't that what the Inter-Island engineers are supposed to do also?      A. Yes.

Q. And so far as you know they do their duty?

A. So far as I know; yes.

Q. Then when you testified on direct if a hawser parted that it would take a few seconds only provided the engineer was where he could get to his engines, didn't you mean also to say that as a matter of fact, the engineer being where he ought to be, that any one of the steamers could have been stopped in a few seconds?

(Testimony of J. F. Haglund.)

A. So far as I know. [3190—2359]

Q. You don't mean to say that the engineers of the Inter-Island steamers are called away from their engine while on watch?

A. I don't mean to say that; what I do mean to say is that his duty very often calls him over to look after his bearings; sometimes he has to go to the forward part of his boilers and consequently, it may take minutes before he could get to his machinery and stop it.

Q. How large is the engine-room of the "Mikahala"?

A. Well, as a rule, the engine-room in our smaller boats are pretty well crowded up and it would be more of a difficult matter to hurry than in a larger boat.

Q. Do you think that the engineers in all your boats in the course of their duty would be apt to be in a position where it would take them a minute to get out and go to their throttle?

A. They may have been in a place where it would take them a minute.

Q. What's suppose to happen to the engine in the meantime, supposing a quick signal was sent down there?

A. It had to be answered so near as possible.

Q. And your engine-rooms are so equipped both as to engineers and machinery that the engineer is apt to be now and then in places where it will take him a minute to get to his throttle?

A. All depends where he is and what he is doing.

Q. What do you do in case of an imminent colli-

(Testimony of J. F. Haglund.)

sion? Isn't your engineer supposed to be where he can answer the signals?

A. I thought you were referring to a steamer lying in port.

Q. I am asking if they were going to sea, what about it?

A. They are down in their engine-room.

Q. Aren't they where they can hear all signals given down there in case of a collision for example?

A. He's supposed to be as attentive to the engine as he possibly can be. [3191—2360]

Q. Do you mean to say that your engineers are in positions at times while they are at sea where it might take them a minute to get to the throttle?

Mr. WARREN.—I object to the question; it is different.

The COURT.—I will allow the question.

The WITNESS.—What was the question.

(Question read.)

A. Yes, they might.

Q. Now, what would happen in case of an imminent collision, if there were a signal to the engine-room to reverse the engine? Under those conditions it would mean, wouldn't it that the engines wouldn't be reversed and the collision would probably happen? A. It certainly would.

Q. And you mean to say that your engineers in the course of their duty while on voyage are in positions where they subject the vessels to that danger at times?

Mr. WARREN.—Same objection.

The COURT.—Same ruling.

(Testimony of J. F. Haglund.)

A. There's other positions beside standing by the throttle and reversing.

Q. And your engine-rooms are so equipped and so crowded that the throttle at times, in the course of duty, can be reached only within a minute's time?

A. I don't say so.

Q. Haven't you so testified?

A. That they couldn't be reached, you say.

Q. Yes, I say so that at times the throttle couldn't be reached within a minute's time?

A. If the engineer is doing a certain kind of work forward in the boiler, it may take him possibly a minute before he could stop and reverse his engine.

[3192—2361]

Q. And he's supposed to be doing that kind of work where signals requiring instant action are apt to be given?

A. He's supposed to do and tend to all his different duties.

Q. Now then, particularly are towing on a vessel ashore and a number of vessels around in more or less proximity, wouldn't it be the *beauty* of the engineer to be within reach of his throttle so that he could get to it upon a second's notice at all times?

A. Maybe so if he was out in the open ocean and nothing in his way.

Q. So that when the danger from towlines is reduced to actuality, there wasn't any considerable danger to any of the towing steamers?

A. Oh, yes, there was a great deal of danger just the same, yes.

Q. Notwithstanding the fact you testified on

(Testimony of J. F. Haglund.)

direct that the Inter-Island steamers were not in any great danger?

A. Outside of that, of getting their propeller, foul of a line.

Q. Nothing like that did happen?

A. I don't know if other lines parted outside the "Mauna Kea's" and she had the tendency to swing her clear.

Q. Her lines didn't get caught in her propeller?

A. Not in the manner the "Mauna Kea's" line was fast.

Q. The "Mauna Kea's" line didn't get caught in its propeller? A. Not that I know of.

Q. So that the "Mauna Kea" by means of her propeller could have steamed out of the road of the other steamers if there had been a steamer to leeward?

A. It all depends where the other steamer would be lying.

Q. Within a hundred and fifty or two hundred feet of her, then what? A. It may be all right.

Q. Don't you think that under those conditions the "Mauna Kea" could have steamed out of the road? [3193—2362] A. I couldn't say.

Q. With all your maritime experience you are unable to form any judgment as to whether or not the "Mauna Kea," according to your judgment would have been able to get out of the way without taking the steamer to the leeward?

A. According to my judgment?

Q. According to your maritime experience.



(Testimony of J. F. Haglund.)

A. Barring no accidents she would have got out clear.

Q. Did she have any other than that her line parted? A. Not to my knowledge.

Q. Was there any other accident except that her line parted? A. Not that I know of.

Q. How much was the winch of the "Celtic Chief" used by the Miller Salvage Company after eleven o'clock on Wednesday night?

A. It was used occasionally, so far as I remember, every time I looked *at between* eleven o'clock and half-past eleven.

Q. Was it used after half-past eleven?

A. It might have been.

Q. You don't know?

A. I don't remember. I won't be positive to state so.

Q. Do you know whether it was used by the Miller Salvage Company at the time the "Celtic Chief" actually began to move off the reef? I mean when it was perceptible on the vessel itself?

A. That I don't know because it was on the poop.

Q. Isn't the winch within clear view?

A. I didn't observe the winch.

Q. You could see the winch all the time? It could be seen from the poop?

A. It could be seen from the poop. You could see the bars.

Q. Why did you say a few minutes ago that you didn't observe it?

A. My attention wasn't called [3194—2363]

(Testimony of J. F. Haglund.)

to the winch at all. I had other duties to tend to at that time.

Q. Now, you didn't observe the preventer that Miller used, the Miller Salvage Company used in connection with its line with reference to the tackle—I mean the shackle? You didn't observe that, did you?

A. It was hove through the shackle and back aboard the ship.

Q. Did you see that? A. I *say* it done.

Q. Why did you testify on direct that you didn't see that?

A. I saw them heave the shackle up with the boat on the end line as we call it.

Q. When was that? A. On Wednesday.

Q. What time? A. I don't know.

Q. Daytime or night-time? In the daytime, wasn't it? A. Certainly.

Q. Did you examine that?

A. I did not examine anything.

Q. Do you know how it was fastened to the shackle from your actual observation?

A. Rove through the shackle.

Q. Did you know how it was rigged with reference to that shackle yourself? I don't want you to tell me how it was rigged. I want to know whether you know or not from your own observation. Do you know how it was attached to the shackle?

A. I know that the two ends led aboard the "Celtic Chief."

Q. Do you know how that was attached to the shackle? A. The mouth of the shackle—

(Testimony of J. F. Haglund.)

Q. Don't tell me how it was attached. I want to know if you know how it was done.

A. I don't know. I don't remember whether it was rove to the lock or to the pin. The shackle was rove, I don't know how far from the "Celtic Chief"; maybe one hundred feet, maybe two hundred feet.

Mr. OLSON.—I move to strike on the ground—withdraw [3195—2364] my motion.

Q. Do you mean to say that you did not observe that line at the other end down near the shackle at all?

A. I observed where the boat had it heaved up.

Q. Where did you see that?

A. I saw them heaving the wire line through.

Q. Do you know whether or not it was fastened any other way? A. I could tell—

Q. All I want to know is whether it was fastened any other way?

A. I know the end come on board.

Q. I'm asking you whether you know whether it was fastened any other way?

A. How could it be fastened any other way? The boat didn't stop there long enough.

Q. I'm asking you to state whether you know it was fastened any other way.

A. I don't understand the question.

The COURT.—Mr. Olson asks, as I understand the question, if this could be fastened any other way.

A. I don't see how it is possible for any other way.

Q. Did you see?

A. I didn't see because the boat was lying between, but I saw the end of the wire brought aboard

(Testimony of J. F. Haglund.)

and I also know that to do that it would take time. The end of the wire came aboard with the boat, did not slack up the shackle and hold it up, and how could it be any other ways than just rove through.

Q. The truth of the matter is you don't know from your own observation?

A. I could not state so.

Q. And you didn't see it afterwards or any other time? A. Not afterwards.

Q. So that all of your testimony with reference to the method of that wire being attached to that shackle is purely your conclusion, your judgment? [3196—2365] A. My judgment.

Q. Because you think the wire was—

A. I saw the wire attached.

Q. That isn't the point. Having seen the two ends of this wire on board the "Celtic Chief" as you have testified repeatedly, although I haven't asked for that point, did you see how the line itself was shackled to the shackle? Was it attached to the shackle from actual observation, or is your testimony only the opinion that it was, simply your conclusion?

A. The only possible way it could have been possibly done.

Q. That isn't the point, and I ask the Court now to instruct the witness to state whether or not he observed or whether or not he is only reaching a conclusion.

The COURT.—Mr. Olson is entitled to an answer to show how much of your statement is based on knowledge.

(Testimony of J. F. Haglund.)

The WITNESS.—If your Honor please, there is no block used that I know. There is no block taken out of the boat to put on this shackle and consequently the only way was to rove the end in because after they had it once rove they took the end in the boat and on to the "Celtic Chief."

Mr. OLSON.—Move to strike all the testimony as not responsive.

The COURT.—I think the motion should be granted and I so rule. Captain, Mr. Olson is entitled to a statement whether, as I say, what you said was based on observation or on actual knowledge. I understand that it was based on deduction.

A. I have stated that I did not see the shackle at the time because it was, the boat was between the "Celtic Chief" and the shackle and I couldn't possible see the shackle.

Q. So you don't know how it was attached to the shackle?

Mr. WARREN.—I object to that; let the witness finish his answer. [3197—2366]

Q. How many times was the rope used in the first purchase-tackle, that is, the main tackle of the Miller Salvage Company, how many times was it, did it go back and forth? A. How many sheeves?

Q. How many times did it go back and forth over the sheeves?

A. She was hove through two treble blocks; that makes six rounds.

Q. That means, does it not, that if there were a hundred feet between the two blocks, that it requires six hundred feet of rope to completely rig that



(Testimony of J. F. Haglund.)

tackle? That's right, isn't it?

A. Six hundred feet or over.

Q. Well, six hundred feet at least?

A. At least, yes.

Q. Now, then, if you move the end, the fall from that main tackle one foot, how far, we'll say move that a hundred feet, how far does that move the block? A. Sixth part of it.

Q. One-sixth of that? A. One-sixth.

Q. How many sheeves were there in each of the blocks of the second luff tackle?

A. The same way.

Q. And the same would be true?

A. Not if it was attached to the other tackle.

Q. That isn't the point. I say, if the block itself would move? A. The tackle by itself?

Q. Yes, the tackle were rigged as the main tackle?

A. Exactly.

Q. How many sheeves in the blocks of the third tackle? A. Four.

Q. Two in each, or four? A. Two in each.

Q. Now, then, if that were rigged as the main tackle, how far would that move upon moving the fall a hundred feet?

A. A fourth of that, or twenty-five feet. [3198—2367]

Q. Now, then, with tackles arranged in that way, how many feet of rope, how many feet of the fall of the second luff tackle, that is, the third tackle, would have to be taken in in order to move the block on the tackle one foot? A. The second luff.

Q. The first luff, the second tackle. The fall of

(Testimony of J. F. Haglund.)

the last luff tackle, how many feet of that would have to be taken in in order to move the first block one foot?

A. Six times six, and four times thirty-six would have to be taken in.

Q. One hundred and forty-four feet?

A. One hundred and forty-four feet in order to move the first block on the main purchase one foot.

Q. Now, do you know how much—no, I'll withdraw that. Do you know how much one pound exerted upon the first fall, the fall of the last luff tackle, would be multiplied, how much of that would be multiplied through these three tackles? Do you know that exactly, mathematically?

A. Not unless I figured it out.

Q. You don't know?

A. Not unless I got other figure for it; it all depends how the purchase is rigged.

Q. Do you know whether or not the strain that was exerted by the Miller purchase-tackles on the Miller line, whether that strain was taken by the wire hawser or by the ten-inch manilla hawser?

A. Taken by the ten-inch manilla hawser.

Q. How do you know that?

A. Because I say the straps around the manilla hawser where the block was attached.

Q. Do you know whether or not the wire lines got any strain at all? A. Not to my knowledge.

Q. Wasn't that wire line attached to the block?

A. No.

Q. It was not? A. No. [3199—2368]

Q. How was it attached to the other end?

(Testimony of J. F. Haglund.)

A. Through the shackle by a preventer line that they got, re-enforcement.

Q. You know, do you not, that that line must have been attached to the block?

A. Yes, but not the same points.

Q. That isn't the point I'm asking about. Again, I ask you to confine yourself to my question. Was it attached to the block?

A. So far as I know, so far as I observed, it was fast to the block. There may have been times when I didn't observe the tackle that it may have been readjusted, that I didn't observe, but more or less continually, night and day.

Q. When was it that you observed that the manilla hawser was taking the strain and not the wire?

A. Any time I looked at it.

Q. When was the last time you saw it?

A. I don't remember.

Q. Was it as late as half-past eleven? Wednesday, half-past eleven?

A. I didn't go and look at that.

Q. At any time Wednesday night?

A. I did not.

Mr. OLSON.—That's all the cross-examination. Oh, by the way: Have you found out yet the names of the men who were in the boat with you?

A. I can't find out whether they are still in the company. I don't know.

Q. Did you make any inquiry?

A. I have inquired.

Q. But you have been unable to find out?

A. Unable to find anybody.

Q. Was it a "Mikahala" boat or a "Helene" boat?

(Testimony of J. F. Haglund.)

A. I don't remember.

Q. You know the men that were with you?  
[3200—2369] A. It was one of the two.

Q. You know the men that were employed on those two vessels? A. I do not.

Q. Is it impossible for you to find out from the Inter-Island Steam Navigation Company records?

A. Oh, no.

Q. Did you go to those records to see?

A. But I haven't found one of the men.

Q. Did you go to see who were the boatmen?

A. They are not in Honolulu at this time.

Q. I'm asking you if you went to the Inter-Island records to find out who were the boatmen on those two boats on that night?

A. I have inquired from the shipping master.

Q. Did you find out who the boatmen were?

A. I can't find that out, unless I find the men.

Q. You knew who were all of the boatmen of those two steamers?

A. There are some of the shoremen on the boats. They may have been all shoremen. I really don't know who the men were. There was a number of men out there; there was in the neighborhood of seventy-five and eighty stevedores.

Q. Who furnished the stevedores to the Inter-Island Steam Navigation Company?

A. We picked them up down the wharf.

Q. Wasn't it through McCabe, Hamilton, and Renny? A. No, sir.

Q. Who was the foreman in charge of the stevedores? A. The foreman was George Fern.

(Testimony of J. F. Haglund.)

Q. Didn't have any other man in charge of the stevedores? A. Not out there, I don't think.

Q. Not out there?

A. Captain Piltz, the mate of the "Mikahala," was aboard there looking out for certain things.  
[3201—2370]

Q. Was he not acting as a boss or *luna* there over men now in the employ of the Inter-Island Steam Navigation Company?

A. Not to my knowledge, outside of George Fern; he is not in our employ any more.

Q. And what was George Fern doing?

A. He was foreman. He was the one that was shipping-master at the time and he came out and got the men, and he remained there until we got the vessel off the reef.

Mr. OLSON.—I think that's all.

Cross-examination on Behalf of MILLER SALVAGE CO.

Mr. WEAVER.—Q. Captain, if you imagine a line drawn along the keel of the "Celtic Chief" and extending astern till after it's passed beyond the anchor of the "Helene," how far away from that line was the port anchor of the "Helene"?

A. The port anchor was thirty fathom less chain than on the starboard anchor.

Q. That's not the question. I'm directing your attention to distance if you can give it. How far away from a line, I believe it is sometimes called dead astern, was that port anchor of the "Helene"?

A. The port anchor may have been a half a point, approximately.



(Testimony of J. F. Haglund.)

Q. That's giving it in points. How many degrees is a half a point, five and a quarter?

A. Five and a quarter? A half of it. Five and three-quarters, there is eleven and a half degrees to a point.

Q. And that anchor was how far away from the stern of the "Celtic Chief"?

A. Well, there's the length of the towline, the length of the ship and sixty fathom of chain; at that small angle I guess it would be approximately that sum added up, away from the "Celtic Chief."  
[3202—2371]

Q. What do you make it?

A. I'm not very good at figuring in my head.

Q. What's the length of the towline?

A. Six hundred and thirty-five.

Q. And the length of the ship?

A. One hundred and seventy, three hundred and sixty feet of chain.

Q. That makes a total of eleven hundred and sixty-five feet? Does that sound right? It is the sum of six hundred and thirty-five, one hundred and seventy, and three hundred and sixty feet?

A. Six hundred and thirty-five, one hundred and seventy, and three hundred and sixty.

Q. You add the length of the chain to that, do you?

A. Yes.

Q. Can you say from observation, now, how far on the side of a straight line drawn through the keel of the "Celtic Chief" that anchor was laid?

A. Through the keel of the "Celtic Chief."

Q. On the first question, again. You gave it in degrees, can you give it in feet?

(Testimony of J. F. Haglund.)

A. Not unless I may do it on paper, I couldn't.

Q. How far away from the port anchor was the starboard anchor?

A. The angle between the two chains from the hawse-pipes, so near as I can remember and judge, would be a couple of points, I should judge, whatever distance that would make; but between the two anchors I couldn't determine unless I measured it.

Q. It's about twenty-one degrees?

A. Approximately that.

Q. And what was the depth of the water where your port anchor was laid?

A. About six fathoms, I should judge.

Q. And the starboard anchor?

A. Nearer seven; not even seven; maybe little less.

Q. What was the incline of the bottom of the ocean from where those anchors were laid up to the reef where the "Celtic [3203—2372] Chief" was aground? A. The incline of it?

Q. Yes.

A. Well, where the "Celtic Chief's" stern was, there was nineteen feet of water, but what angle—

Q. Do you know what the incline was?

A. I don't know it in degrees, no.

Q. In feet?

A. I couldn't say it, unless I measured it.

Q. Lay it out on a piece of paper, take a scale on it. Don't you have any idea of what the incline of the bottom was running aft of the "Celtic Chief" and on each side of her?

A. It would be very small.

Q. Very small what?

(Testimony of J. F. Haglund.)

A. Very small portion. I couldn't state to you how many inches to the foot or how many inches to the fathom even, unless I laid it out on a piece of paper and scaled it off.

Q. How near could you approximate the depth?

A. The distance to the starboard anchor, I think it is one hundred and thirty feet; now, the distance on the port, it would be approximately twenty-one foot.

Q. Do you know what the condition of the bottom of the sea was over the reef, going out seaward, on the port side of the "Celtic Chief," toward the west?

A. I couldn't state. I know nothing more than that because I didn't go over there to sound.

Q. Then you based your knowledge upon the knowledge of the position where the anchors of the "Helene" were laid and your knowledge—

A. And where the steamer "Helene" was lying, I know the depth there. That's how I based my knowledge. I got other means of determining it.

Q. Do you know anything about the depth of the water four hundred feet or five hundred feet away from the "Celtic [3204—2373] Chief," and four points on her port quarter?

A. Not positively, but I think it's a little shallower.

Q. What is that?

A. I think it was somewhat shallower.

Q. Why?

A. Because, being familiar with the locality around there, I know there is considerable shoals sticking out there.

Q. Wasn't that very close to the line between the "Celtic Chief" and the "Helene"? Wasn't this

(Testimony of J. F. Haglund.)

place indicated, I say, three or four points on the port side of the "Celtic Chief"—that's very close to the line between the "Celtic Chief" and the "Helene," was it not?

A. That's farther to the westward.

Q. How much?

A. Well, must have been all of three points.

Q. It would be three points? A. About that.

Q. How much would that be in distance?

A. I couldn't tell you.

Q. Couldn't you tell from your knowledge?

A. It might have been several hundred feet.

Q. Do you know that it would be as much as two hundred feet?

A. Yes, it would be more to the westward of a line drawn between the "Helene" and the "Celtic Chief." It would be more than two hundred, possibly be more than five hundred feet.

Q. You base your statement that there's a shoal there upon the assumption that the distance is about five hundred feet to the westward of a line between the "Helene" and the "Celtic Chief"?

A. I cannot positively state so, but I think that the shoals there is a little to the westward of the "Celtic Chief," so near as I can remember, observing so often as I have. [3205—2374]

Q. What reasons have you, if any, for saying that the Miller anchor, if laid four or five hundred feet on the port quarter of the "Celtic Chief" and about four points on the port quarter, was not a good position for that anchor?

A. Because there was too much of an angle.

Q. Why?

(Testimony of J. F. Haglund.)

A. Four or five points on a ship's quarter, that's considerably too much of an angle for it to have any aid in pulling the ship off sternward.

Q. Well, would not a slight angle tend to pull the ship loose in its channel and then allow it to slide off, twist it slightly and then make room for her to slide off in her bed?

A. Not with the same effect as it would if that angle wasn't in existence.

Q. Supposing a man have an anchor there, four points to the port side, and operate strain upon it, might it not be good seamanship and cause a slight difference in the position of the "Celtic Chief"?

A. I don't think so.

Q. You think dead astern is the best position?

A. The same way as the ship goes off the reef, as a rule, is the wise way to get her off.

Q. If an anchor were put out four hundred or five hundred feet on the port side of the "Celtic Chief" and four points on that side, would there be any danger at all to the ship from the anchor?

A. If it was put a severe strain on it, you mean?

Q. Yes; would there be any danger to the ship from the anchor being laid in that position?

A. It may have been, yes.

Q. How?

A. It may have strained the vessel. Trying to slide her broadside like that instead of coming from the stern, might have strained her keel; might do different kind of damage to her bottom in that way.

Q. You have stated, I believe, that the lines of the Miller [3206—2375] Salvage Company to the



(Testimony of J. F. Haglund.)

anchor were not as taut as possible. Now, what test did you make to determine whether or not they were taut?

A. I did not make any test, only that I observe the wire where it come out of the water.

Q. You were on the poop deck, were you not?

A. No, I was in the boat going by it.

Q. Were you not on the poop deck after eleven o'clock on Wednesday night? A. Yes.

Q. Did you not have an opportunity there of seeing those lines?

A. I did look at them lines once or twice, and as near as I can remember, I don't know as I saw it much tauter. May have been little—I wouldn't say that it wasn't; at the same time, to my best judgment, it wasn't so taut as it could have been.

Q. Didn't those lines go across the poop deck?

A. Along the poop deck.

Q. The length of it, fore and aft? A. Yes.

Q. Didn't you have to step over the lines?

A. They were lying right on the deck.

Q. Then you had an opportunity to test them by stepping on them?

A. No possible means of doing that.

Q. You couldn't step on it?

A. I could have stepped on it, but I wouldn't be any wiser than before I stepped on it.

Q. Then there was no distance between the line coming over the poop and the deck by which you could test the strain? A. No, not on the poop.

Q. On the main deck, you say the line came over the deck aft? A. Yes.

(Testimony of J. F. Haglund.)

Q. Isn't that a few inches above the deck?

A. Yes.

Q. Couldn't you step on it there? Isn't that a good way to test the strain?

A. No, that's only an old seaman's [3207—2376] yarn.

Q. You couldn't tell?

A. You couldn't tell by stepping how much strain was on it, and I didn't step on it.

Q. Now, if Captain Macaulay says a man may test a line by stepping on it, he is working on an old seaman's yarn?

A. You may be able to say whether it is slack or somewhere near slack, but to determine the strain actually put on it—

Q. It is a fact, is it not, he could determine whether or not there was more or less strain upon the line?

A. Yes, certainly, but how much strain—

Q. It is a test of whether a line is taut or not?

A. It is test of a kind in a way.

Q. And you didn't use that test? A. I did not.

Q. Did you observe at any time when you were on the poop deck that night after eleven o'clock where the shackle on the Miller Salvage Company's line was? A. I did not observe.

Q. Did you ever see it on deck?

A. Not to my knowledge.

Q. Did you ever see it forward of the poop deck from the main deck?

A. Not that I know of. If I remember correctly, when he was unshackling the wire from the hawser there was some of Miller's line up on the poop and

(Testimony of J. F. Haglund.)

judging from that I suppose that's where the shackle were, but I didn't see the shackle.

Q. You saw some man working on a shackle?

A. I couldn't say, but I presume that was what they were doing.

Q. When did you see this?

A. Just as the ship was floated.

Q. Do you know whether it was a hawser or a cable that came aboard the poop deck while you were on the poop deck after [3208—2377] eleven o'clock Wednesday night?

A. I don't remember as I went and looked at that particularly and how it was that the wire got in-board or not; that I'm not prepared to state.

Q. You can't say, then,—you are not prepared to state that it was not a steel wire that came across the poop?

A. Whether the wire was outside the deck or inside, that I couldn't state.

Q. You are not prepared to state, then, that it was a steel cable that crossed the poop at some time while you were there?

A. I am not prepared to state so.

Q. After eleven o'clock, Captain, were you at any time in the cabin below with either Miller or Captain Henry or Pilot Macaulay?

A. Not that I can remember.

Q. You heard this conversation or testimony of Miller, did you not? Were you down in the cabin down below taking refreshments? A. I was not.

Q. Are you positive of that fact? A. I am.

Q. You were on deck all the time?

(Testimony of J. F. Haglund.)

A. No, part of the time I was aboard the other steamers and the "Arcona."

Q. I speak of after eleven o'clock.

A. After eleven o'clock I was on the main deck part of it, and on the poop also, but I didn't go down below.

Q. Did you present these people with these sandwiches?

A. That was the early part of the evening.

Q. Were you in the cabin eating sandwiches at any time?     A. I was not.

Q. Was there an occasion on which you presented sandwiches?

A. I had some sandwiches sent from the "Mikahala," but I didn't take them aboard.

Q. Do you know when they got aboard? [3209—2378]

A. I do not.

Q. Were they there when you were there?

A. I don't know. I was aboard the "Mikahala" when they were sent.

Q. Then you did not take refreshments with any of these others?

A. I did not at that particular time or at any time when I was down the cabin.

Q. Where were you most of the time, where on the poop, that night? What part of the poop?

A. So near as I can remember I was over on the port side. I don't mean to say all the time, but I might have gone on the starboard side also. I don't remember exactly, but my particular business was mostly on the "Celtic Chief's" port side. That's

(Testimony of J. F. Haglund.)

the side we was working the cargo to the last and that's where I had the "Helene's" and the "Like-like's" lines fast and which I was more anxious about, more so than the "Mikahala's" and that's what kept me more on the port side of the "Celtic Chief" than on the starboard side of her.

Q. And you were near the mizzenmast, were you not? A. Beg your pardon?

Q. Were you near the mizzenmast?

A. Oh, yes.

Q. While there were you sitting down or standing up?

A. I don't think I was sitting down at any part of the ship or at any time from between eleven o'clock until after the ship was towed off the reef.

Q. And how far from the break of the poop were you on the port side?

A. I was not in any particular station.

Q. What was the extent of your operations there on the deck?

A. Half the length of the ship from midships, from the main hatch. I got the men called out there after we stopped discharging and went up on the poop. It would be about [3210—2379] half the length of the ship.

Q. In the course of moving about on the poop, how far away from the break of the poop would you go tending to your duties?

A. So far as the main hatch.

Q. No, on the poop, while on the poop how far away from the break of the poop would you go in tending to your duties?



(Testimony of J. F. Haglund.)

A. So far as the stern of the ship.

Q. Did you go as far as the stern of the ship?

A. I did.

Q. How many times did you go as far as that?

A. I couldn't say that.

Q. How far away from the break of the poop was your usual position while there?

A. I didn't have no usual position. I was in any part of the poop.

Q. Weren't you near the mizzenmast more than any other place?

A. I may have been so, because that's where the "Helene's" lines were kept and that was nearer the mizzenmast than to the stern and I may have spent more time around there.

Q. And from that position, could you see the Miller Salvage Company line over the stern?

A. No, I could not, not from that position.

Q. When you were down on the main deck which side of the vessel were you on?

A. Mostly on the port side after that time of evening, after eleven o'clock.

Q. And the Miller tackles were on the starboard side? A. Yes.

Q. From that side could you see the Miller Salvage Company's line over the stern?

A. Oh, no, certainly not.

Q. Did you observe how the Miller Salvage Company's tackles were rigged to the starboard line of the "Arcona" coming in from amidship on deck, the main deck?

A. Well, "Arcona's" wire came in through the

(Testimony of J. F. Haglund.)

midship chock on [3211—2380] the “Celtic Chief,” run across the deck and fastened to her mainmast.

Q. Now, the Miller Salvage Company’s tackles were across this?

A. The tackle was over the wire.

Q. The tackle was over the wire? A. Yes.

Q. How high was that wire from the deck?

A. Maybe a foot, maybe two. I don’t remember exactly how high that hawse-pipe was above the bars of the ship.

Q. Are you prepared to swear that the tackles were over the wire and not under this wire?

A. Yes.

Q. And do you know whether or not they touched the wire, the tackles?

A. Any time I looked at them they were lying on the wire, touching the wire at all times.

Q. Touching the wire at all times?

A. At all times that I saw them.

Q. Where—do you remember when the second red light on the “Celtic Chief” was sent up in the mizzenmast?

A. Well, so near as I can remember it was done before I came aboard the ship. I didn’t see it go up, but I know it was there approximately at eleven o’clock. It may have been put up just few seconds or few minutes before that; it may have been a long period of time.

Q. Then that second red light was not run up after it was off, after the “Celtic Chief” was coming off? Are you prepared to swear to that?

A. Oh, that was all there, I know, before eleven

(Testimony of J. F. Haglund.)

o'clock or before I came aboard the ship.

Q. Did you see any of the signals given for the "Arcona," these fire signals? A. I did.

Q. Did you see the green light signals? A. Yes.

Q. When did they go off with regard to the "Celtic Chief" coming [3212—2381] off?

A. When the "Celtic Chief" commenced moving the first time there was no signals fired. That's the first time we noticed her moving previous to twelve o'clock, but how long after twelve o'clock, I'm not prepared to state.

Q. Was the coming off of the "Celtic Chief" and the shooting off of these signals simultaneous?

Mr. OLSON.—Object to the question on the ground it is not proper cross-examination by the Miller Salvage Company.

Mr. WEAVER.—I withdraw the question.

Q. When the "Celtic Chief" was moving off the reef what were the causes, the various causes, leading to her coming off in the direction she did? Give your idea or opinion in the matter and, as near as you can, what causes led her to come off in the direction she did, giving particular attention to direction and not to speed or anything else?

A. Because the strain, effective strain on that pull would practically be right astern.

Q. That is, it would be a compromise or result between the force of the "Helene" and the "Likelike" and the "Mikahala" balancing each other?

A. Yes.

Q. And the Miller Salvage Company's line?

A. Whatever amount that was, yes. I acknowl-

(Testimony of J. F. Haglund.)

edge there was a certain amount of strain on the Miller's line.

Q. Now, then, Captain, if the Miller Salvage Company's line had ceased to exert any force immediately after the ship was floated, would the direction of the ship be the same in your opinion?

A. Until some of the lines were cut it would be the same.

Q. And then when the lines were cut what effective force was there after that cutting to give direction the ship's course?

A. After the "Mikahala," or after the "Like-like's" and the "Helene's" lines were cut, the "Mikahala" was the only vessel exerting any [3213—2382] power on the "Celtic Chief" sheer-ing her inshore or to the windward so much as she could with her power.

Q. With the strain on the Miller Salvage Company's line that you observed, was it possible that that strain would cause the "Celtic Chief" to come off the reef in the direction of the "Arcona" and from that strain alone obtain sufficient momentum to approach the "Arcona" as nearly as you observed her, forty or fifty feet?

A. Certainly it did not. In my opinion it had very little to do with it because the strain wasn't sufficient.

Q. Did you—before the "Celtic Chief" came off, did you observe any trouble with the shackle of the Miller Salvage Company line getting into the chock on the stern of the "Celtic Chief"?

A. I did not observe that trouble. It may have been there, but I did not observe it.

(Testimony of J. F. Haglund.)

Q. Did you see Captain Macauley around the chock with Miller just before the "Celtic Chief" came off?

A. I saw Captain Macauley on the poop. I don't know where Captain Miller was at the time.

Q. Can you say whether or not Captain Miller and Captain Macauley were working together over something at the chock at the stern of the "Celtic Chief" where the Miller line came through?

A. I couldn't say.

Q. After eleven o'clock on Wednesday night, how could the Miller people use the same winch when you were using it in unloading cargo?

A. We had stopped working on the starboard side at that time. We was only working on the port quarter, after hatch.

Q. Were you not using two of these gypsy-heads up to eleven-thirty, using them both? A. No.

Q. When did you stop using one?

A. About eleven o'clock. When I come aboard I went forward to stop the work on the main hatch and got the scow ready to [3214—2383] let go from the "Celtic Chief" and get the men up on deck.

Q. You've stated that in your opinion the Miller Salvage Company anchor did not exert more force or effect force on the "Celtic Chief" to pull her off the reef as the steamers of the Inter-Island individually. How do you compare that with the work of the "Likelike," for instance?

A. She had a very heavy strain on her line.

Q. "Likelike" had a strain on her line?

A. Very severe strain on her line.



(Testimony of J. F. Haglund.)

Q. She did?

A. Yes, sir, just about as much strain as could be put on it without breaking it.

Q. Then you base your opinion in regard to the "Likelike" merely on the fact that you think she had as big a strain as she could stand?

A. A bigger strain on her than they exerted on the Miller Salvage Company's line.

Q. How do you determine that this line had as big a strain as it could stand?

A. By looking at the winch in the manner it took in the slack of that tackle.

Q. I'm asking on the "Likelike's" line, how did you determine that that was as big a strain as it could stand. How, by what means do you determine that?

A. I looked at it both inside the chock and over the chock to the boats.

Q. On the "Celtic Chief"?

A. On the "Celtic Chief," yes.

Q. You looked at it. Can you tell by merely looking at the line that it had as big a strain as it could stand?

A. Oh, no; the direction it led out in a nearly straight line between the steamer.

Q. Don't you have to know, in order to determine that, the pulling power exerted by the steamer, indicated horse-power of the engine, the pitch of the propeller, its diameter and the revolutions, indicated effective horse-power in pulling, and then by reference to books determine the particular [3215—2384] breaking strain of your hawser? That's the

(Testimony of J. F. Haglund.)

only way you can determine that?

A. Not necessarily. You can determine it by experience. You know through experience whether a line have a severe strain or just merely being taut by looking at the line, just by looking at it without any tests.

Monday, November 6, 1911.

Q. The "Likelike" was pulling on the "Celtic Chief" there after eleven o'clock at the same time as the "Helene." Now, the relative power of those two agencies was the same, was it?

A. Both pulling.

Q. The relative power was about the same, I suppose. That was the "Likelike" and the "Helene"?

A. Oh, the "*Likelike*" is a more powerful boat than the "Likelike."

Q. Which was?

A. The "Helene" is a little more powerful boat.

Q. That isn't the question. The pulling power exerted by the two is about the same, isn't it?

A. No.

Q. One greater than the other? A. Yes, sir.

Q. Which was greater? A. The "Helene."

Q. Now, then, the "Helene" was exerting a greater pulling power by what reason?

A. She had more horse-power for one thing, heavier ship, had two anchors laid out ahead of the "Likelike."

Q. What kind of hawsers had the "Helene"?

A. Twelve-inch hawsers, manilla hawsers.

Q. And the "Likelike"? A. Eight-inch.

Q. One eight-inch hawser?

(Testimony of J. F. Haglund.)

A. One eight-inch hawser.

Q. And the "Helene" had how many hawsers, one or two? A. One twelve-inch. [3216—2385]

Q. Then the difference was due to a greater pulling power or engine power of the "Helene" as well as she had anchors out forward?

A. And using her winches.

Q. Was the "Mikahala" greater than the "Helene" in her pulling power in your opinion?

A. No.

Q. Then the "Helene" was greater than either the "Likelike" or "Mikahala"? A. Yes, sir.

Q. What line had the "Mikahala"?

A. She had two eight-inch hawsers, manilla hawsers.

Q. And she was pulling with her anchors only?

A. She had an anchor-chain out ahead.

Q. Was she doing any pulling by means of her anchor?

A. She got her chain taut so far as I know.

Mr. OLSON.—I object to that last statement of the witness on the ground it is obviously hearsay.

Mr. WARREN.—I'm not objecting to that going out.

The COURT.—Very well, that's stricken.

Q. Then, in your opinion, the "Helene" was exerting more influence, more pull, than either the "Mikahala" or the "Likelike," was she? A. Yes.

Q. Now, wasn't that because she had anchors out and was pulling in on her anchors, exerting a pull on her anchors and thereby transporting the strain to her stern line? A. Yes.

(Testimony of J. F. Haglund.)

Q. Not only because of the greater horse-power but because of her pulling in on her anchor-chains?

A. Yes, that's what I stated.

Q. Well, then, you believe that the pulling power, holding power of an anchor depends upon the angle which the chain or cable to the anchor as to the bottom; the holding power depends on it?

A. I said the chain formed no angle to the bottom.

Q. You contend, I understand, that the "Helene" had a stronger [3217—2386] holding power because her anchor was out further from the "Celtic Chief" than the Miller anchor, and, therefore, the line that ran from the "Celtic Chief" to the "Helene" had a less angle? A. It certainly did.

Q. That's the reason?

A. It had more holding power, yes.

Q. Because the angle of the cable or line to the "Helene" anchor was less, isn't that the real reason?

A. Supposing there was a straight line drawn from the "Celtic Chief" to the "Helene's" anchor, the angle would be smaller.

Q. And that's the reason the holding power was greater? A. Yes, that's one of the reasons.

Q. Hasn't the size of the anchor a great deal to do with the holding power?

A. Yes, if they lay in the same place.

Q. It's the same kind of bottom? If there be the same kind of bottom and one anchor be a one-ton anchor and another a five-ton anchor under the same angle of pull, which would hold the most?

A. It all depends what cables there are on her. If they had a similar chain, similar weight on to the chain, similar distance, under similar conditions of

(Testimony of J. F. Haglund.)

bottom, then the greater weight would have the best hold, but under those conditions at the "Celtic Chief," the "Helene" anchor was twice as far from the "Celtic Chief" than the Miller anchor; "Helene" had a greater weight out.

Q. How was that?

A. She had ninety fathom on one and sixty fathom on the other.

Q. Doesn't the holding power depend a great deal on the amount of resistance on account of the size of the flukes? A. They have to a certain extent.

Q. A one-ton anchor—

A. All depends on the condition of the bottom.

Q. If the condition of the bottom be the same, then the size [3218—2387] of the flukes of the anchor would have considerable to do with the holding power of that anchor?

A. If the flukes would hold on the bottom.

Q. And the shank of an anchor, relative size of a shank of an anchor gives the power of an anchor to hold before it breaks doesn't it?

A. The strength of the flukes lies on the shank.

Q. But the fluke will hold a sort of a grab on the side?

A. The fluke, the bend in the anchor have really the hold.

Q. The fluke is a sort of, just like a plow?

A. Same principle.

Q. Therefore, a big surface would hold more than a smaller surface, wouldn't it? A. Yes.

Q. Now, then, I believe your explanation of the holding power was that if a chain be nearly up and



(Testimony of J. F. Haglund.)

down naturally the flukes wouldn't get any grab in the bottom and no hold? A. No.

Q. Whereas a longer chain out would enable these flukes to get a grab and the more horizontal you made your chain the better the flukes will grab?

A. That's correct.

Q. And on that is why you say when the chain is up and down it has no hold?

A. It has no hold, no.

Q. Now, if the "Celtic Chief" were inclined to move in on Wednesday before eleven o'clock on account of the swell, was it safe to lighten cargo, well, we'll say before five o'clock of Wednesday, was it safe to lighten cargo if the "Celtic Chief" was inclined to move in with the swell?

Mr. OLSON.—Object to the question on the ground it is not proper cross-examination, if the Court please.

Mr. WARREN.—Same objection.

Mr. OLSON.—I'll withdraw my objection.

Mr. WEAVER.—I'll withdraw the question and reframe it. On Wednesday up to five o'clock, the Inter-Island Company [3219—2388] was lighter-  
ing cargo, were they not? A. Wednesday?

Q. Yes. A. Yes, sir.

Q. Well, if the "Celtic Chief" were moving in toward the reef by reason of the swells coming from the stern, was it safe seamanship to lighten her under those conditions?

Mr. WARREN.—I object to the question.

Mr. WEAVER.—Between sunrise and five o'clock?

(Testimony of J. F. Haglund.)

Mr. WARREN.—I object to the question as involving an improper assumption.

The COURT.—I allow the question.

A. She wasn't moving in.

Mr. OLSON.—Move to strike on the ground it is not responsive.

The COURT.—Motion is granted.

Mr. WEAVER.—I want that question answered as it was given.

A. If there had been a tendency of the "Celtic Chief" moving in at that time we would have put more anchors out. We had plenty anchors and chain.

Mr. OLSON.—Move to strike on the ground it is not responsive.

The COURT.—I will grant the motion.

Mr. WARREN.—I object to its going out, your Honor.

(Question read.)

A. Not under those conditions, certainly not.

Q. Can you say whether or not the Miller line running over the poop that night that you saw, about eleven o'clock, was a wire hawser or a manilla hawser? A. Manilla hawser.

Q. You know that it was? A. Yes.

Q. And did you notice how big it was?

A. To my best judgment about ten inches circumference.

Q. Didn't you testify on direct examination that you did not notice the manilla hawser of the Miller Salvage Company [3220—2389] coming over the poop?

(Testimony of J. F. Haglund.)

A. Not that I can remember testifying to anything like that.

Q. You don't remember? A. No.

Q. You don't remember having so testified?

A. No, I do not.

Q. The fact then is that you know it was a manilla hawser? A. Manilla hawser.

Mr. WEAVER.—That's all the cross-examination.

Recross-examination by Mr. OLSON.

Q. You say that the size of the "Mikahala's" line was eight inches in circumference? A. Yes.

Q. It was an ordinary manilla hawser, wasn't it?

A. Ordinary manilla hawser.

Q. Do you know the breaking strain of an eight-inch manilla hawser?

A. Approximately twenty-five tons.

Q. That is to say, that if that rope were rigged straight up and down and a twenty-five ton object attached to the lower end of it that it would require that amount of weight to break the line?

A. That's what it is supposed to be.

Q. And in order for a steamer towing by means of such a line to break the line, it would have to exert a strain upon that line which would be equal to twenty-five tons; isn't that so? A. Yes, sir.

Q. So, then, you think that the "Likelike" was exerting a twenty-five ton strain upon that line while she was pulling there?

A. She could have broke that hawser.

Q. Well, was she exerting as much as twenty tons?

A. She might at times.

Q. Do you think she did?

(Testimony of J. F. Haglund.)

A. Well, it's kind of hard to say exactly, but there was times I should judge between the swells that she might have exerted that amount.

Q. Where was her anchor laid?

A. Aft, about two points on the port quarter of the "Celtic Chief," astern; laid ahead of [3221—2390] the "Likelike."

Q. What direction was the anchor laid from the "Helene" itself? A. Right ahead.

Q. What? A. Right ahead.

Q. Directly ahead?

A. About south by west by compass, from the "Celtic Chief."

Q. Well, with reference to the "Likelike," are you prepared to say that the anchor was not laid at all on her port quarter?

A. On her port bow, you mean?

Q. Port bow?

A. No, they run a line from the "Likelike's" bow over the "Helene" and hove her up to avoid the current.

Q. I don't understand that.

A. They run a bowline from the "Likelike" up to the "Helene's" starboard side and hove the "Likelike" up closer to the "Helene" which was more powerful, and after that hauled the "Likelike" up to the eastward in line with her anchor. In fact she was a little to windward of her anchor.

Q. Who is the captain of the "Likelike" or was at that time?

A. An Hawaiian by the name of Napala.

Q. Has there been any officer of the "Likelike"?

(Testimony of J. F. Haglund.)

testifying in this case so far? A. Two engineers.

Q. Aside from the engineers?

A. No, I don't think so.

Q. You stated a little while ago, I believe, that the "Likelike," the difference between the "Helene" and the "Likelike" was in this, that the "Helene" was using, was not only a more powerful boat, but was using her anchors for pulling on the "Celtic Chief." That was the difference between the "Likelike" and the "Helene." Then, as far as you know, the "Likelike" was pulling by means of her propeller only?

A. And she had her chain hove taut; so taut as they could get it.

Q. Where were you when you say that they were taut? [3222—2391]

A. I was on the "Likelike."

Q. And you observed that she was using her anchor for the purpose of heaving?

A. The anchor chain was so taut as they possibly could get it.

Q. Did you observe that?

A. I saw it hove taut. I can tell a chain, Mr. Olson, when it is taut and when it is not taut.

Q. Did you actually see the winches in use?

A. I didn't see it in use but I heard it used, heaving the winch chain. I heard the winches turning around and I saw the chain taut.

Q. So, excepting for the fact that you did see the chain and position that it had, you don't know, then, whether or not the "Likelike" was actually using her anchor for the purpose of pulling on the "Celtic Chief"? A. Of course, I do.



(Testimony of J. F. Haglund.)

Q. Didn't you just state that the reason why you say she was using her anchor was because you saw the chain?

A. I saw the chain taut, consequently they must be using it for that purpose.

Q. Isn't that the reason why you say that the "Likelike" was using her anchor for the purpose of hauling, because you saw the anchor chain and its position? A. Yes.

Q. That is the reason, isn't it?

A. That is the reason.

Q. Do you know what amount of strain the "Like-like," by means of her propeller, was capable of exerting at that time, effective power?

A. Out there?

Q. Yes.

A. It all depends on the motion of the ship along with her horse-power used on the [3223—2392] engine and also what power she exerted on the anchor-chain. I couldn't say how much that would amount to exactly in tons.

Q. You don't know? A. No, not exactly, no.

Q. Why did you say that you think that at times the "Likelike" was exerting as much as twenty tons strain upon her line?

A. Because I saw that hawser just about as taut as it could be or nearly so without moving. I saw that a good many times during Wednesday afternoon, Wednesday evening, and also during the early part of Wednesday afternoon.

Q. And you were able, by looking at the hawser and seeing it, to determine that there was about a twenty tons of strain on it? A. Yes, I think so.

(Testimony of J. F. Haglund.)

Q. What is the horse-power of the "Likelike"?

A. Her indicated horse-power is about three hundred and eighty, if I remember right.

Q. It's about three hundred and seventy, isn't it?

A. Between seventy and eighty.

Q. Do you know the pitch of her wheel?

A. I do not.

Q. Do you know the maximum revolutions of the "Likelike's" engine?     A. I do not.

Q. Now, how many tons in your opinion, is the "Likelike" capable of exerting pulling upon an object that is fixed, pulling by means of her propeller, at the maximum?

A. Under the conditions that prevailed out at the "Celtic Chief"?

Q. Suppose she is pulling in smooth water with a line attached to a fixed object, how many tons of strain is she able to transfer?

A. She couldn't exert very much power towing in smooth water. I can't state exactly; in the neighborhood of three tons. [3224—2393]

Q. What is the difference between towing in smooth water and water such as that that prevailed about the "Celtic Chief"?

A. A great deal of difference.

Q. Well, what is the difference.

A. The momentum of the ship, the whole weight of the ship in the seaway will add its weight to the towing hawser.

Q. You know, do you not, that the "Likelike" was stationary before the "Celtic Chief" began to come off?     A. Moving up and down in the seaway.

Q. Except for the fact of this up and downward

(Testimony of J. F. Haglund.)

motion she was practically stationary?

A. Practically stationary outside of the up and down motion.

Q. What was there that would add to her power, pull, in the condition of the sea that prevailed about the "Celtic Chief"?

A. The way that ship moved up in the bight that existed between the "Celtic Chief" and her anchor.

Q. You mean the rise and fall?

A. Rise and fall.

Q. Of the ship itself?      A. Ship itself.

Q. How much do you think that would add?

A. It all depends on the amount of rise and fall.

Q. Do you think it would be as much as fifteen or sixteen?

A. I think more than that in some of the big swells.

Q. You think so?

A. I do. I could tell it on the line.

Q. Now, when was this that this occurred? When was it that there was this strain being exerted by the "Likelike"?

A. During all the time she was going full speed ahead.

Q. Was that true on Wednesday before dark?

A. There was a couple of times we had to stop her engines.

Q. Except for the times when she had her engines stopped? [3225—2394]      A. Yes.

Q. And after eleven o'clock you observed the "Likelike's" line also closely?      A. Yes.

Q. Did you observe, at any time after eleven

(Testimony of J. F. Haglund.)

o'clock, that the "Likelike" was exerting as much strain as that upon her line? A. Yes, I did.

Q. Somewhere in the neighborhood of twenty tons?

A. In my best judgment about that.

Q. How long was that before the "Celtic Chief" came off? A. All the time.

Q. All the time?

A. Every time I saw the line.

Q. Did it fall? Was there a certain time while the swell was raising her or letting her fall that this strain would be the greatest? It wasn't constant twenty tons?

A. At the time she raised up it would be greater strain.

Q. Do you mean to say she had twenty tons practically all the time and it would be greater?

A. Greater as the ship was lifted.

Q. How much greater?

A. That's impossible for me to say.

Q. Well, the least amount greater?

A. I couldn't state any definite amount.

Q. Would it be as much as ten tons or more?

A. I stated up to about twenty tons strain on her, so near as I could judge.

Q. Do you mean twenty tons was the greatest at any time?

A. I think so because the line didn't break. There may have been a few tons over.

Q. It was while she was rising on these swells that there would be as much as twenty tons?

A. Had a greater strain.

Q. And you observed that every few moments up

(Testimony of J. F. Haglund.)

to the time [3226—2395] that the ship actually came off?

A. At a few seconds before the line was cut.

Q. How long had the "Likelike" been pulling out there?

A. She pulled over, I should judge, about approximately twelve hours.

Q. Twelve hours constantly?

A. Approximately that.

Q. Now, then, referring to the "Helene," how much strain do you judge that the "Helene" was transferring by her line, in tons, say during the half hour or so preceding the coming off of the "Celtic Chief"? A. I couldn't tell exactly.

Q. How much?

A. I couldn't tell you that exactly.

Q. You know that she was exerting a greater strain than the "Likelike"?

A. Certainly, a greater strain because she had a better hold for it, little more horse-power, and heavier ship; besides, she had approximately a hundred ton of saltpeter in her and the weight of her was a great deal larger than the "Likelike"; consequently the strain was a great deal more than the "Likelike's."

Q. How much would you judge the difference was? Would it be as much as twice as much more, do you think? A. At times I think so.

Q. You think it sometimes ran as high as forty tons? A. I think so.

Q. Would it run higher than that with the swells?

A. Might have been.



(Testimony of J. F. Haglund.)

Q. In your judgment might have been forty-five or fifty? A. Hardly as high as fifty.

Q. Somewhere between forty and fifty at the maximum? A. At the maximum, I should judge.

Q. Was she exerting less than that just before the "Celtic [3227—2396] Chief" came off or was that up to the time the "Celtic Chief" came off?

A. Up to the time that her line was cut.

Q. And these swells would come every few minutes? A. Yes.

Q. What is the breaking strain of a twelve-inch manilla hawser?

A. Fifty-six tons and a fraction.

Q. Now, you testified that the line of the "Mauna Kea," after the operations, according to your judgment and from the examination that you gave it, had deteriorated to what extent? I am now referring to the line of the—

Mr. WARREN.—I object to this as improper cross-examination on Mr. Weaver's examination, your Honor.

Mr. OLSON.—Then I ask the Court's permission to go into the matter.

The COURT.—I allow it.

Mr. WARREN.—And then have a recross again after I have direct?

Mr. OLSON.—At this time, this is part of my cross-examination.

Q. Now, the line to which I refer, is that of which there is a sample in evidence in this case as Libellant's Exhibit "O," what was the amount of deterioration that you testified to?

(Testimony of J. F. Haglund.)

A. I have testified that it was practically useless to the Inter-Island.

Q. You said, did you not, that its tensile strength had been reduced a certain amount? Let's find out what you testified about that. What did you say about that?

A. I don't remember how much I said.

Q. Now, then, you haven't forgotten what your judgment was on that point? What, in your judgment, was its tensile strength after the "Celtic Chief" operations, immediately [3228—2397] after the "Celtic Chief" operations, as compared with what it was at the start?

A. In my best judgment, I should think that line would probably—maybe the tensile strain of it may be so high as fifty to seventy-five per cent so far as the breaking strain.

Q. Is that your judgment? A. I think so.

Q. You think that that's at least half as strong as it was when it was new and possibly three-fourths as strong?

A. As far as the strength of it; maybe little less, maybe little more. I can't tell.

Q. You testified on direct, did you not, that the "Mauna Kea's" line was the one that had stood the most strain of any of the lines that were used by the Inter-Island vessels in the "Celtic Chief" operations?

A. The "Mauna Kea" and the starboard line of the "Mikahala" was the two worst ones.

Q. What was that answer?

A. The "Mauna Kea" and the starboard line of the

(Testimony of J. F. Haglund.)

"Mikahala" was the two worst ones.

Q. Which was the worse of those two?

A. Practically the same.

Q. And fifty-six tons was the breaking strain of a twelve-inch manilla hawser such as was used afterwards by the "Helene"? A. That's correct.

Q. Then, one-half of fifty-six would be twenty-eight tons, wouldn't it? A. Yes.

Q. And therefore, Captain Haglund, doesn't it follow that if that line had deteriorated to the extent of one-half of its tensile strength through its use at the "Celtic Chief" operations, that a strain of twenty-eight tons or more, exerted at any time just previous to the "Celtic Chief's" floating, would have broken that line? I mean a strain similar to that expended by the "Helene"?

A. If the tensile strain was only twenty-eight tons.  
[3229—2398]

Q. But you testified very positively that the tensile strain of that line had been reduced to less than one-half of its original tensile strength.

A. If I testified to that I may have been mistaken because no man can tell the tensile strength of that piece of rope lying there unless you test it.

Q. You have testified, have you not, Captain Haglund, that, in your judgment, the "Helene," just previous to the floating of the "Celtic Chief," was exerting as much as forty or fifty tons with this line, of which a sample is in evidence, marked Libellant's Exhibit "O." A. To my best judgment.

Q. Then, as a matter of fact, your judgment is that that line had a tensile strength of forty tons immediately after the "Celtic Chief" operations?

(Testimony of J. F. Haglund.)

A. It might and it might be less. I don't say positively.

Q. If, in your judgment, the "Helene" was exerting as much as forty tons or more upon that line just prior to the floating of the "Celtic Chief," then isn't it true, Captain, that, in your judgment, that line had a tensile strength of forty tons or more?

A. If that is the case.

Q. And that is your judgment?

A. So near as I can.

Q. Now, then, kindly examine Libellant's Exhibit "O" in the way that you said you examined it after the "Celtic Chief" operations? A. You see how—

Q. Don't say anything about it, just examine it. First, examine the whole thing. Examine it as carefully as if you were going over it again?

A. I can't testify to the tensile strength. I don't remember anything about that.

Q. Have you opened up the yarn, the various strands, to see [3230—2399] what they look like inside?

A. The looks of it wouldn't tell me what the tensile strength is.

Q. You can't judge of the tensile strength by looking at it? A. I can't tell.

Q. Have you examined that as carefully as you could do in order to judge to the best of your ability of the tensile strength of it?

A. I couldn't tell the tensile strength.

Q. Have you examined to the best of your ability for the purpose of determining, as well as you can, how strong that rope is as compared to what it was

(Testimony of J. F. Haglund.)

when it was new? Are you incapable of forming any judgment?

A. I have stated so far as I could; maybe fifty per cent, maybe less, maybe more.

Q. I want you to examine it.

A. I've examined it, not once—

Q. I want you to examine it now. I want you to examine it just exactly as you would do if you wished to satisfy yourself, to the best of your ability, for the purpose of judging what its strength is.

A. I couldn't tell you that, Mr. Olson and Judge, unless I know positively what strain had been put on it. I know at one time there was a breaking strain put on that line because the steamer "Mauna Kea" broke it twice, and, judging from that alone, I know the deterioration. Maybe now that line got a weak spot in it.

Q. I want you to examine that in the best way that you can here, for the purpose of judging to the best of your ability from such examination what its strength is.

A. I have stated, Mr. Olson, it is impossible for any sailorman [3231—2400] or anybody else to judge the tensile strength of this rope. You may open up every strand and then you are not able to testify further than I have already done.

Q. Didn't you testify on direct that the day after the "Celtic Chief" operations were completed you examined this particular line of which this is a sample, Libellant's Exhibit "O" and from that examination and from what you knew of that line, your examination of it before it was used for the "Celtic Chief" operations, you reached the conclusion that



(Testimony of J. F. Haglund.)

it had a comparatively small strength, or less than fifty per cent? A. I couldn't possibly state.

Q. Did you so testify?

A. I may have done so, I don't remember exactly. I still maintain that it might have half of the tensile strength.

Q. I'm not asking you that all. Have you testified as to your judgment of its strength the day after the "Celtic Chief" operations or compared it with that? A. I don't remember.

Q. Don't you remember that you testified, in response to Mr. Warren's question, that you examined that piece of rope after the "Celtic Chief" operations, during the day after? A. I certainly did.

Q. And haven't you testified on direct that that line, in your opinion, had suffered a certain deterioration? A. I do remember that.

Q. And don't you remember that you testified the amount of that deterioration?

A. I don't remember saying so.

Q. Didn't you testify what, according to your best judgment, was the amount of the deterioration?

A. Yes.

Q. Have you examined this small rope? [3232—2401] A. I have.

Q. Here, to-day, in response to my direction to you to do so in the same way that you did the day after the "Celtic Chief" operations?

A. The line at that time—

Q. Have you done that? A. I have done so.

Q. Now, then, Captain Haglund, will you state what, in your opinion, is the tensile strength of that

(Testimony of J. F. Haglund.)

piece of rope—I am now referring to Libellant's Exhibit "O"—according to your best judgment, knowing what you know about that line both from its use at the "Celtic Chief" operations and its use at the present time?

A. I have testified there may have been a deterioration of fifty per cent, maybe less or maybe more.

Q. Is that your judgment now?

A. That is my judgment.

Q. How much more than fifty per cent?

A. It may be less than fifty per cent.

Q. Do you now think it's less?

A. I don't know.

Q. And that's what you meant to say on direct?

A. So near as I can judge it would be approximately, if anything, a little more.

Q. And if you state less than one-half of its tensile strength on direct did you mean it?

A. If I said so I meant it.

Q. And that was your best judgment at that time?

A. Certainly was.

Q. Now, then, the "Helene" was exerting as much as forty or fifty tons of pressure upon that line?

A. I didn't state that positively.

Q. That was true according your best judgment?

A. She may have, and she may have exerted less; I don't know. I've said dozens of times, I don't tell to a ton. [3233—2402]

Q. Haven't you testified, according to your best judgment, she, at times, just immediately prior to the "Celtic Chief's" floating, that she had as much as forty or fifty tons?

(Testimony of J. F. Haglund.)

A. Not any more at that particular time.

Q. Haven't you testified that immediately prior to the ship's floating, the "Helene," at times, according to your best judgment, was exerting as much as forty tons?

A. Yes, maybe less and maybe more.

Q. You said that was your best judgment, forty tons or more?

A. To my best judgment, at the same time it maybe less and it maybe more.

Q. I'm asking you what your best judgment is. Was it forty tons or more or was it less?

Mr. WARREN.—Object to the question as asked and answered.

A. That's so near as I can remember it. I can't positively state to you in tons how much the breaking strain of that line is and I can't state to you how much power in tons the "Helene" was exerting out there.

Q. Your best judgment was forty tons or more?

A. Forty tons or more, maybe less.

Q. "Did you say, "or less" a few minutes ago when you answered in response to my question?

A. I think I have testified on safe opinions.

Q. Didn't you testify when I first *asked* you about that, that in your opinion it was forty tons or more?

A. It may also be less.

Q. I'm asking you if you didn't so testify?

A. I can't answer you.

Q. Now, you've heard read to you the testimony that you gave in response to my question, and you heard that you did testify, in your opinion, it ran as high as forty and even at the minimum forty or fifty?

A. At the minimum. [3234—2403]

(Testimony of J. F. Haglund.)

Q. Now, I am asking you this, Captain Haglund. In your judgment that line was subject to a strain by the "Helene" of forty tons or more immediately prior to the "Celtic Chief's" floating was there anything that happened during the floating of that "Celtic Chief" that served to reduce the strain of that line to a lower point than it was just immediately prior to the floating?

A. Not to my knowledge.

Q. Then, Captain, according to your best judgment, knowing the strain that that line was subjected to as shown by your examination, that line had a breaking strain of forty tons at least after the "Celtic Chief" was floated? A. Not after.

Q. Immediately after the "Celtic Chief" was floated? A. No.

Q. Then the "Helene," was not, according to your judgment, at any time just prior to the time the "Celtic Chief" floated, putting as much as forty tons on it? A. Before she was floated?

Q. Yes. A. To my best judgment?

Q. Yes. A. It may have been.

Q. What happened between the moment, the last time that minimum strain was exerted by the "Helene" and the time the "Celtic Chief" was off, to reduce the tensile strength of that line? What reduced it during that half hour or so?

A. Getting the ship afloat.

Q. When the "Celtic Chief" was floated, the last few minutes, two or three minutes, reduced that strain a number of tons, reduced the tensile strength of that line a number of tons?

(Testimony of J. F. Haglund.)

A. Not the line but the strain on it.

Q. I'm asking you if it isn't true that that line, as far as you know, was not reduced in tensile strength between the last time that the "Helene," according to your judgment, exerted [3235—2404] a forty-ton strain upon it and the time that the "Celtic Chief" was floated. Do you understand my question? A. I do not.

Q. Well, was that line as strong, according to your judgment, immediately after the floating as it was the last time you say the "Helene," when you saw it was exerting a forty-ton strain?

A. No reason why it shouldn't be.

Q. If that is so that line had a strength of forty tons or more immediately after the "Celtic Chief" floated? A. It might have that much.

Q. Isn't it true if your judgment is that it stood that strain immediately before the floating?

A. To my best judgment, I say.

Q. That's all I'm asking you for, whether or not to your best judgment. I don't understand that you calculated the exact tensile strength of that line.

A. I have testified to that.

Q. And your testimony was that the tensile strength of that line was one-half of what it was originally, about twenty-eight tons or less; isn't that what you testified on direct?

A. I now want to say my judgment may not be correct as far as the tensile strength.

Q. I'm asking you now change your statement?

A. No, I haven't changed my judgment.

Q. You still think it only, could only stand a strain



(Testimony of J. F. Haglund.)

of twenty-eight tons or less after the "Celtic Chief" was floated?

A. I couldn't tell you how much it would stand.

Q. Didn't you testify on direct that according to your best judgment as shown to be founded upon your examination of that line the day after the floating of the "Celtic Chief," a rope indicated, upon your knowledge of what that line had [3236—2405] been doing during the "Celtic Chief" operations, that its tensile strength had been reduced one-half or more? A. Maybe so.

Q. And you now testify that immediately prior to the floating of the "Celtic Chief," according to your best judgment, a strain of forty tons was put upon that line and that the line, according to your judgment did not reduce? A. I don't think so.

Mr. WARREN.—I object to that question as multiplicitous, your Honor.

Mr. OLSON.—I withdraw the last question then in order to make it plain.

I'll ask you, Captain. And you now say, do you not, that that line, after the "Celtic Chief" operations, according to your best judgment, had a tensile strength of forty tons or more, in view of the fact that you have testified that immediately prior to the floating of the "Celtic Chief" a strain of forty tons was put upon it and nothing occurred to reduce that strength?

Mr. WARREN.—I object to that as asked and answered.

The COURT.—The objection is overruled.

(Question read.)

(Testimony of J. F. Haglund.)

A. I don't understand that question, Mr. Olson.

Q. You don't? A. No, I do not.

Q. Now, let's come back to the "Likelike" for a moment. What is your judgment as to what the tensile strength of the "Likelike's" line was immediately after the "Celtic Chief" was floated as shown by your examination of the "Likelike's" lines?

A. I don't know.

Q. What?

A. I don't know the tensile strength.

Q. You can't even give an approximation according to your [3237—2406] best judgment?

A. How much the tensile strength was after the ship was floated?

Q. Yes, as compared to what it was when the line was furnished to the "Likelike" to go out there to the "Celtic Chief."

A. Not to a pound or a ton either.

Q. What? A. Not to a ton exactly.

Q. Did you appreciate that I just asked you for you to state approximately according to your best judgment?

A. Maybe up to between fifteen and twenty ton tensile strain on it.

Q. That is, you say, when you say the tensile strain on it, you mean that was its tensile strength after the "Celtic Chief" commenced that way?

A. No, that's the tensile strain I think was put on it.

Q. I want to know what you think its tensile strength was as shown by your examination the day after. A. Just the same.

Q. How much according to your best judgment?

(Testimony of J. F. Haglund.)

A. Anywheres between five and twenty tons.

Q. Fifteen and twenty tons?

A. To my best judgment that line had a tensile strength of twenty-five pounds at the beginning of their operations. Approximately that.

Q. And, according to your best judgment, its tensile strength had reduced over five or ten tons on account of its use at the "Celtic Chief" operations?

A. Maybe less, maybe more.

Q. Well, that's your best judgment, isn't it?

A. My best judgment.

Q. Then you are prepared to say, still, that the "Likelike," according to your best judgment, was exerting as much as twenty tons force upon that line immediately prior to the floating of the "Celtic Chief"? [3238—2407] A. I think maybe more.

Q. If that is so that line must have had a strength of twenty tons or more immediately after the floating of the "Celtic Chief"? A. After?

Q. If what you say is true, that the "Likelike" was exerting a force upon that line immediately prior to the floating of the "Celtic Chief" of twenty tons or more, I say, if that is true, isn't it also true that that line had a tensile strength of twenty tons or more immediately after the floating?

A. The line may have had a strain there. The line was the same.

Q. I'm asking you to answer this question: If the "Likelike" exerted, according to your best judgment, immediately prior to the "Celtic Chief's" floating, a strain upon that line of twenty tons or more and the line did not break, isn't it also true, if

(Testimony of J. F. Haglund.)

your judgment is correct in that respect, that that line was capable of withstanding a strain of twenty tons or more without breaking?

A. It might and it might not. I can't tell and I don't think anybody else could.

Q. In your judgment was that line as strong after the floating of the "Celtic Chief" as it was immediately prior thereto?

A. No reason, in my judgment, why it shouldn't be, at the same time I can't possibly state.

Q. Now, then, if that line was as strong immediately prior to the floating, immediately after the floating as it was immediately prior to the floating of the "Celtic Chief," and if, immediately prior to the floating of the "Celtic Chief" the "Likelike" exerted a strain upon that line of twenty tons or more, doesn't it necessarily follow, if your judgment is correct, that that line was capable of standing a strain of twenty tons or more after the floating of [3239—2408] the "Celtic Chief"?

Mr. WARREN.—I object to the question as once asked and answered, your Honor.

The COURT.—Objection overruled.

A. I have stated, Mr. Olson, so far as I know, in my best judgment there's no reason why it shouldn't be as strong previous, after floating, as previous, before she floated, but, at the same time, I can't positively say so.

Q. I'm assuming that it was as strong immediately after the floating as it was immediately before the floating of the "Celtic Chief." If that is true, and if your judgment is correct that the "Likelike" placed a strain of twenty tons or more immediately

(Testimony of J. F. Haglund.)

prior to the floating of the "Celtic Chief," isn't it necessarily true that that line could stand a strain of twenty tons immediately after the floating of the "Celtic Chief"?

Mr. WARREN.—I object to the question as asked and answered.

The COURT.—Captain Haglund, can you answer that question "Yes" or "No," so there will be no question about the matter? I understand your answer was iresponsive but there may be some question about it.

(Question read.)

A. That's the closest I can answer it, your Honor.

Q. If a line withstand a strain of twenty tons, actual strain put on it, of twenty tons, that's its tensile strength, isn't it at least? It has that tensile strength at least? A. When it's new?

Q. I don't care whether it's new or not. If a line withstands a strain of twenty tons, that is its tensile strength at that time, at least, is it not? A. Yes.

Q. And if, five minutes later, nothing has changed or altered it that's its tensile strength? I assume there was no [3240—2409] change and I ask you to assume there was no change.

A. But I know there was a change.

Q. You know, do you, that that line deteriorated in strength? A. Less strain put on it.

Q. I'm asking you about the strength of the line. What difference does it make as to the strain on the line as to this line? I'm asking you if it's true that a line can stand a strain of twenty tons and then there is no change in it, if its tensile strength is not twenty tons?



(Testimony of J. F. Haglund.)

A. How do I know that there was no change?

Q. I'm telling you that there was no change.

A. I know there was a change.

Q. In strength?

A. Certainly. If you put a strain on that piece of rope, maybe twenty ton, maybe it will not break, but you will put a strain of twenty ton again, it may break.

Q. Assume that there was no change.

A. If there was no change it would be the same.

Q. And, haven't you testified that as far as you know that line was as strong immediately after the floating as immediately before and you never made a change? A. If there was no change—

Q. Didn't you say there was never a change?

A. Yes, but if you put the same strain on a line—

Q. Haven't you stated as far as you know there was never a change in the strength of that line?

A. Not so far as I know.

Q. Now, you say, do you, that there was a greater strain exerted upon the "Mikahala's" starboard line than its port line? A. At that time, yes.

Q. When was that? What time?

A. From Monday morning until Wednesday night.  
[3241—2410]

Q. Now, after the port line was made fast, was there any more strain exerted upon that starboard line than on the port line?

A. The strain exerted on both, which was the heavier strain? I am not prepared to state.

Q. Have you any idea about it?

A. There was so near alike as they possibly could be made.

(Testimony of J. F. Haglund.)

Q. If that is so, there was not exerted on the port line a strain that was equal to its breaking strain?

Mr. WARREN.—I want to interpose another objection. This point isn't certainly, upon the cross-examination on Mr. Weaver's examination.

The COURT.—I will hold you down to certain limits, Mr. Olson.

A. They never broke, no.

Q. If there was about an equal strain upon the two lines and the starboard line was the weaker of the two, that means, does it not, that the full strain put upon the port line was only equal to that put upon the starboard line?

A. If there was equal strain on it.

Q. In other words, less than the tensile strain of the port line, isn't that so? A. That's so.

Q. Do you know how many tons of effective power the "Mikahala" could transfer to those lines?

Mr. WARREN.—I'd like it understood that the same objection is made as to all this line of testimony.

The COURT.—The record will show that to be the case.

A. Not exactly in tons.

Q. Well, do you know approximately?

A. About half the tensile strength of them lines, as near as I could judge.

Q. Could the "Mikahala" exert that much strength, that much [3242—2411] power upon those line pulling on an object that was fixed in smooth water? A. No.

Q. Well, how much could she do, approximately, that way? A. A little bit more.

Q. How much would that be, three or four tons?

(Testimony of J. F. Haglund.)

A. In any event four tons.

Q. Not more than four tons?

A. Not more than four tons.

Q. How much more was she able to exert by reason of the conditions existing out there?

A. A great deal more, how much I couldn't tell.

Q. How many more do you think?

A. I couldn't state.

Q. Judging from what you saw of the "Mikahala's" line, how much strain do you think was exerted at the maximum by the "Mikahala" on her lines immediately prior to the floating of the "Celtic Chief"? A. Just about all the lines could stand.

Q. What?

A. Just about all the lines could stand without breaking.

Q. Now then, you examined the port line, did you not, after the "Celtic Chief" operations?

A. Yes, examined all the lines.

Q. How long had that been used by the "Mikahala"?

A. From Tuesday morning until the ship was floated.

Q. From Tuesday morning until the ship was floated? A. Yes.

Q. Now, what had been the deterioration, according to your judgment, of that line from the time she began to use it when it was new and during the "Celtic Chief" operations until the time that the "Celtic Chief" was floated?

A. I don't remember now whether it was Tuesday or Wednesday morning.

(Testimony of J. F. Haglund.)

Q. How much deterioration had that rope suffered, according [3243—2412] to your judgment, as compared to what it was when the "Mikahala" first began to use it? A. Not so very much.

Q. How much do you think?

A. I don't remember exactly now in what condition it was. It was pretty good line, the port line was.

Q. It was a twenty-five ton line, a line that would stand a twenty-five ton strain? A. Yes.

Q. And it hadn't suffered much deterioration?

A. Not so much as the deterioration to the other lines.

Q. Do you mean that it had reduced five or ten tons in strength? A. Maybe so.

Q. Is that your best judgment?

A. So near as I can remember.

Q. Between five and ten tons?

A. As near as I can remember. It was two years ago and I don't remember how the "Mikahala's" lines looked.

Q. You've testified concerning other comparative tensile strengths, have you not?

A. So near as I can remember.

Q. Now then, the starboard line had suffered more, had it? A. Yes.

Q. That had suffered a fifty per cent or over, reduction in strength? A. Maybe.

Q. That is your judgment

A. So near as I can remember.

Q. So its tensile strain would be twelve tons or thereabouts? A. Maybe more, maybe less.

(Testimony of J. F. Haglund.)

Q. That's your best judgment?

A. So near as I can remember.

Q. If that had a tensile strength of twelve tons and the port line had a tensile strength of fifteen tons or twenty tons possibly, do you mean to say that at the maximum the "Mikahala" was exerting a strain of from twenty-seven to thirty tons or over on those two lines immediately prior [3244—2413] to the floating of the "Celtic Chief"?

A. Perhaps she was, perhaps she wasn't.

Q. Is not that your judgment?

A. So near as I can remember that would be my judgment.

Q. How could there be an equal strain upon those two lines if the tensile strength of the two lines combined is as much as you have said and yet the "Mikahala" was exerting practically the full breaking strain of those two lines? How could there be an equal strain upon both?

A. If you've got two lines, Mr. Olson, when you know one is stronger than the other, the way to get an equal strain would be for your best line to be hauled, pulled tauter than the weak one?

Q. Did that appear to be so from the examination of those lines? A. So near as I can remember.

Q. You remember that the port line was more taut than the starboard line?

A. So near as I can remember the heavier strain was put upon the best line of the two. That's what we call equalizing the line.

Q. How do they equalize those lines?

A. To the sailor's best judgment.



(Testimony of J. F. Haglund.)

Q. Was that done at the beginning when the second line was put on board?

A. After it was stretched.

Q. It was?      A. Certainly it was.

Q. Was any change made in the tautness of those two lines?

A. A new line would stretch considerably more than a line that had already been stretched. They had to be equalized to get the slack in of a new line. That's the only way you could get an equal strain on them.

Mr. OLSON.—I think that's all.

Redirect.

Mr. WARREN.—On cross-examination, Captain, you said that [3245—2414] you had knowledge of the contents of that mail contract of the "Mauna Kea" that was in force in December, 1909. I ask what do you know of—and you also said that you knew there was a penalty clause in it. Now, I ask you what do you know of that?

Mr. OLSON.—I object to the question on the ground it is not the best evidence.

The COURT.—The objection is sustained.

Mr. WARREN.—Now, Captain, Mr. Olson has exhibited to you a piece of wire which is on file in this Court for identification and marked "Libellants' Exhibit 7, Haglund," being piece of cable before you, and you were asked whether or not this was a part of one of the lines used between the "Arcona" and the "Celtic Chief," to which you answered, "It may be a part of one of those lines." Do you remember, Captain, which line this is, the one that left the "Ar-

(Testimony of J. F. Haglund.)

cona" from its starboard or port quarter?

Mr. OLSON.—Object to the question, if the Court please, on the ground it is not proper redirect testimony, and further on the ground it's assuming something that counsel has no right to assume.

Recess.

Mr. OLSON.—I object to it on the ground it is leading.

The COURT.—I will admit the question, Mr. Warren, then if you can show me to-morrow or when we resume hearing that the evidence is otherwise, I will allow it. I allow the question as limited, Mr. Warren. If I am convinced that you are right I will take the matter up again, if you so desire.

Tuesday, November, 7, 1911.

Mr. OLSON.—In order to make unnecessary any testimony on the point to be covered by the admission which I now propose [3246—2415] to make, I admit that the sample of wire line to which reference has been made by counsel and which has been marked in this case "Libellee's Exhibit #7 for Identification," is a part of the line which belonged to the "Celtic Chief" that was used by the "Arcona" and that it is not a part of any line used by the "Arcona" which belonged to the "Arcona."

Mr. WARREN.—I'd like my answer to that to go into the record, your Honor, that the admission distinctly evades the particular point which it is my purpose to prove. This admission goes no further than to say that this is a part of the "Celtic Chief" wire. If counsel will make his admission that the wire of which this is a part was this size from one

(Testimony of J. F. Haglund.)

vessel to the other, or if he will admit that the "Celtic Chief" wire of which this is a part itself completed the entire line between the "Celtic Chief" and the "Arcona," I will accept that admission, but no other.

I'd like to have go on the record, your Honor, that I decline—

Mr. OLSON.—I object to counsel making any statement going on the record on the ground it is not testimony.

The COURT.—I will strike it out.

Mr. WARREN.—I wish to have it on record in this case, your Honor, that that admission does not go to the extent of the facts that I'm entitled to show on this examination. Counsel offers to admit that this is a part of the "Celtic Chief" wire. I know it is; he needn't admit it. I propose to prove to your Honor that this "Celtic Chief" wire was only a part, the "Celtic Chief" wire as a whole was only a part of the whole wire which ran between those vessels and part of it was made up of the whole "Celtic Chief" wire, a sample of which is before the Court, and the rest of it was made up by the "Arcona" wire.

[3247—2416]

Mr. OLSON.—I object to the offer of proof, because I think it amounts to an offer of proof. I object to the offer of proof on the ground that there was nothing in the cross-examination of this witness tending to show that the whole of either of the wires used by the "Arcona" was composed of wire cable of the kind or size of which Libellee's Exhibit #7 for identification is a sample; there is nothing to

(Testimony of J. F. Haglund.)

show that the whole of either of those wires was composed of that kind of cable; there is nothing in the cross-examination of Captain Haglund tending to show that, and, therefore, it is improper redirect. I have admitted of record which of the two lines the same or exhibit is a part of and that is all that counsel is entitled to go into, and as I have not brought out anything in cross-examination of this witness which could, by any interpretation, be regarded as testimony that the whole of that line was composed of wire of that kind—

Mr. WARREN.—I withdraw the question.

Q. Now, Captain, Mr. Olson has handed you this sample, a piece of wire, which has been marked for identification in this case as Libellee's Exhibit 7 for identification. Captain Haglund, I ask you whether or not you are prepared to say, in view of your testimony that the "Arcona" wires, the lines the "Arcona" and the "Celtic Chief" were one-inch, whether you are still prepared to say on seeing this sample that this sample could not be a part of one of the wires used by the "Arcona" to which you replied it may have been a part of it. He asked you further, "It may have been a part of the one that belonged to the 'Celtic Chief'; isn't that so? A. That may be a fact." Now Captain, in answering that this sample may be a part of one of the wires used, one of the lines used by the "Arcona," I'll ask you if you know of which line this may be a part?

Mr. OLSON.—I object to the question on the ground that it's [3248—2417] improper redirect;

(Testimony of J. F. Haglund.)

furthermore, on the ground that the admission just made in the record fully covers the point that this is a part of the wire which was supplied by the "Celtic Chief" to the "Arcona" for use and is not a part of any of the wires belonging to the "Arcona" used by the "Arcona."

I'm willing to admit further, whichever counsel says of the two sides of the "Celtic Chief" the line of which this is a part passed on.

Mr. WARREN.—Your Honor, I'm not a witness in this case and the witness, as well as I, can say which side this line ran on, and if counsel is willing to admit it why is he unwilling to have the witness answer it?

The COURT.—I am going to allow this question.

Mr. OLSON.—Over my admissions, if the Court please?

The COURT.—Yes.

Mr. OLSON.—Now, then, I wish to admit of record that all that Captain Haglund referred to in the cross-examination of Captain Haglund when he referred to this sample was that it was a part only of one of the lines and that he did not intend to say that the whole line extending from the "Celtic Chief" to the "Arcona" on either side was composed of cable of that kind or that size, and I further wish to admit that so far as the claimant is concerned in this case that there is no inference wished to be drawn from Captain Haglund's testimony that he intended to say that the whole of the line running from the "Celtic Chief" to the "Arcona" was com-



(Testimony of J. F. Haglund.)

posed of wire of an inch and a quarter of which this is a sample.

Mr. WARREN.—I decline to accept the admissions because they do not cover the point.

The COURT.—I am going to allow this.

Mr. OLSON.—Then, your Honor, I ask to submit some authorities on the point.

I'd like to have the record show that my objection [3249—2418] is based further on the ground that it's improper redirect in view of the fact that this witness on direct testimony testified that the wire in question, of which this sample was a part, was composed in part of wire supplied by the "Celtic Chief" and about half by the "Arcona" and that these two lines were bent together in the center, as far as the witness could judge, and the matter having been covered by direct cannot be gone into again on redirect, especially in view of the fact that I did not question the witness anything particular with reference to the wires supplied by the "Arcona" itself on my cross-examination.

The COURT.—I've taken my time in this matter because I have authority that authorizes me to rule as I have so far ruled. I don't want to be unfair; I want to preserve the ordinary course. From the testimony, as far as possible; it does seem though that this could be taken a part of the matter in question which explains or qualifies the statements made in cross-examination.

Mr. OLSON.—Even in view of what he stated on direct?

The COURT.—It goes.

(Testimony of J. F. Haglund.)

Mr. OLSON.—He didn't even make a statement that it was a part of the "Celtic Chief" wire. He said it may have been and then I'm to be subjected to examination about the whole lot of wires that I never went into on cross-examination at all.

The COURT.—I'd like to have the question read.  
(Question read.)

The COURT.—The admission seems to cover the question there.

Mr. WARREN.—I'll take a ruling on the question that I put.

Mr. OLSON.—Then, your Honor, as I understand it, is prepared to sustain my objection to that question?

The COURT.—I will withdraw my ruling last made and sustain [3250—2419] the objection in view of the admission of Mr. Olson which seems to cover the point.

Mr. WARREN.—Captain, I direct your attention to the following portion of your testimony in chief, "Where was the wire, or the second wire coming from?" to which you answered, "From the 'Arcona.'"  
Q. I mean which vessel, was it an 'Arcona' wire or 'Celtic Chief' wire? A. The first wire, that is, not the wire that parted by the next one run after that, or half of it, was a 'Celtic Chief' wire and the other half was the 'Arcona's', bent together about the center so far as I could judge from the ship. Q. Do you know the size of those wires? A. One-inch diameter, three-inch circumference." And then to a further question put to you by counsel on cross-examination, he having handed you the sample of

(Testimony of J. F. Haglund.)

wire which is now before the Court and marked Libellee's Exhibit 7 for identification, Captain Haglund, I'll ask you if you were prepared to say that neither of the lines which the "Arcona" attached to the "Celtic Chief" was as large as that, to which you answered, "I do." He then asked you, "Are you still prepared to say, Captain Haglund, that this piece of wire rope that I showed you could not be a part of one of the lines used by the 'Arcona'?" to which you answered, "It may have been a part of it." Now, in view of your testimony that in your judgment those lines were inch in diameter and the fact that this sample is an inch and a quarter in diameter, I'll ask you if you can explain the discrepancy in your statement of the size of the wire on direct testimony and the fact that this piece is an inch and a quarter?

Mr. OLSON.—Object on the ground that this witness testified that this was a part of the wire, and further on the ground it is incompetent, irrelevant, and immaterial and too general; furthermore, I object on the ground it is leading. [3251—2420]

To cut the time short, I'll make a further admission that the witness, when he stated that the lines were an inch in diameter only, was referring to the wires which were not supplied by the "Celtic Chief."

Q. Now, Captain, referring to this sample of wire which is before the Court marked for identification, I'll ask you what kind of a hawser is that.

A. That's what a practical seafaring man will call a four-inch galvanized hawser.

Q. Used for what.

(Testimony of J. F. Haglund.)

Mr. OLSON.—Objection to the question on the ground that it is not proper redirect.

The COURT.—I sustain the objection.

Q. It being admitted, Captain, that this sample of wire before the Court was a part of the "Celtic Chief" wire which "Celtic Chief" wire was a part of one of the wires running between the "Arcona" and the "Celtic Chief," you having stated that you examined the wires at the "Celtic Chief." I'll ask you how did the other portion of that wire compare in condition with the condition of this sample.

Mr. OLSON.—Object to the question on the ground that it's improper redirect.

The COURT.—Sustain the objection.

Mr. WARREN.—Will your Honor allow me—

The COURT.—Yes.

Mr. WARREN.—I wish to have it appear on the record in this case that I admit that the sample wire before the Court is part of the wire of the "Arcona" furnished by the "Celtic Chief."

The COURT.—I'm afraid it isn't strictly cross-examination, Mr. Warren.

Mr. OLSON.—Redirect.

The COURT.—Redirect, yes.

Recess.

Q. Captain, after the "Celtic Chief" had been pulled off the [3252—2421] reef and towed to an anchorage off the harbor, I'll ask you if you knew at the time anything of the condition of her bottom.

A. I did not.

Q. Referring now, Captain, to the sketch which

(Testimony of J. F. Haglund.)

you made and which is on file as Libellee's Exhibit 8, Captain Haglund, and to your answer on cross-examination respecting this exhibit that the angle of the Miller anchor-line with the bottom is here shown to be less than the angle of the "Helene" anchor-chain with the bottom, if both lines are straight, I'll ask you if you know what were the actual angles formed by these lines on the bottom.

Mr. OLSON.—Object to the question on the ground that it's obvious that the captain cannot know for the reason that the lines were buried in the water anywhere from three, four, five, six or seven fathoms of water and, therefore, it must be the conclusion of the witness and the captain has testified that he did not know the weight of the Miller anchor-line.

Add to the objection that I object further on the ground that the witness is not shown to be qualified as to that.

Mr. WEAVER.—I wish to have my objection noted. The same objection, no use repeating the objection.

The COURT.—I sustain the objection.

Q. When you answered counsel, Captain, that the angle formed by the Miller line with the bottom as shown by this diagram is less than the angle formed by the anchor-chain of the "Helene," why did you make part of that answer the statement, "if both were straight"?

Mr. OLSON.—I object to the question on the ground it is immaterial, and furthermore on the ground that the question that was asked him on cross-examination was directed to [3253—2422] straight



(Testimony of J. F. Haglund.)

lines between the anchors and the respective boats to which the anchor-chains and the anchor-lines were attached and did not assume any chain, that the "Helene's" chain was in a position of a straight line, neither did it assume that the Miller line was not a straight line.

Mr. WARREN.—Then I move to strike this exhibit from the files on the ground it is incompetent, irrelevant, and immaterial.

The COURT.—The motion is denied.

The objection is sustained.

Q. In view of your general experience, Captain, in the handling of anchors, anchor-chains, and lines, I'll ask you to state what elements or factors do you take into consideration to determine what would be the angle formed by an anchor-line or chain with the bottom.

Mr. OLSON.—Object to the question on the ground it is not proper redirect.

Mr. WEAVER.—I object to this question on the ground it is not proper redirect examination.

The COURT.—I allow the question.

(Question read.)

A. The factors to be considered in this would be the distance and the weight of the cables from the object it was fast to.

Q. The distance of the anchor from the object to which it is attached. Now, in the case of the "Helene"—I am referring now to Libelee's Exhibit #8—I'll ask you between what points would you indicate a line should be drawn to ascertain the real angle formed even on a straight line theory with the

(Testimony of J. F. Haglund.)

bottom by the "Helene" anchor-chain?

Mr. OLSON.—I object to that as calling for a conclusion of the witness and on the ground it is opinion evidence on a matter on which this witness has not been shown to be [3254—2423] qualified to answer.

I withdraw the objection.

A. It should have been drawn from the stern of the "Celtic Chief" to the "Helene's" anchor as well as the straight line from the "Celtic Chief" to the Miller anchor. The "Helene" is merely acting there as a buoy to the connection between the "Celtic Chief" and her anchor here on that angle.

Q. Why do you say the "Helene" was really a buoy in the middle of that line?

A. Because she was fast to the "Celtic Chief" with a towline and her power on her anchor-chain.

Q. Then, will you draw on this exhibit a line which you believe should be the correct line to ascertain that angle?

Mr. OLSON.—I object to that, if the Court please, on the ground it will obviously destroy the effect of the exhibit; furthermore, on the ground that such a line would not accurately represent the line of the "Helene's" anchor-chain if it were in fact taut, for the reason that the anchor-chain did not lead to the "Celtic Chief" but to the buoy of the "Helene" and from the buoy of the "Helene" to the "Celtic Chief's" stern.

The COURT.—Have the record show that the line is indicated with red ink.

Mr. WARREN.—What difference does it make

(Testimony of J. F. Haglund.)

that the "Helene" was floating?

Mr. OLSON.—Object to the question on the ground it is not proper redirect testimony.

Mr. WEAVER.—Same objection.

Mr. OLSON.—And immaterial.

The COURT.—I am going to allow the question.

A. She was acting as a weight upon the bight which formed between the "Celtic Chief" and her anchor. If the strain could have been put on severe enough, it would in this particular case have lifted her stern and lowered her bow and [3255—2424] would then practically have formed a straight line if she had laid nearer to the "Celtic Chief."

Q. How many bags of fertilizer, Captain, comprised the average sling load hauled up by the donkey on the barge that was brought alongside the ship?

A. As far as I saw it was never any less than six or eight hoisted up by the donkey from the barge.

Q. Under the conditions prevailing out at the "Celtic Chief" on, we'll say, Tuesday and Wednesday, Captain, how many more anchors, in your judgment, might have been or could have been laid and connected with the "Celtic Chief" to be used similarly as the Miller anchor was used with the vessels as they were on Tuesday and Wednesday?

A. We had six spare anchors out there.

Q. I say, approximately how many could have been laid had the operation have been considered necessary?

A. Six was all that we had on board our steamer at that time, six spare anchors which could have been laid, if necessary.

(Testimony of J. F. Haglund.)

Q. What was their weight?

Mr. OLSON.—I object to all of this testimony on the ground that it's not proper redirect. I move to strike on the ground that the answer is not responsive.

Mr. WARREN.—No objection to that.

The COURT.—Very well, so ordered.

Q. Now, will you answer the question, Captain? How many anchors could have been laid under the conditions that existed out there Tuesday and Wednesday?

A. All of them six anchors could have been laid if there had been need of it.

Q. How long, in your judgment, Captain, would it take to bring out a donkey-engine of the same kind that was on the barge and rigged it in position on the "Celtic Chief" to be used in heaving on an anchor laid out in addition to the others that were there and to get an effective strain to [3256—2425] get the line taut? A. That all depends.

Q. What is that?

A. It greatly depends on who were doing it.

Q. Assuming that the Inter-Island were doing it?

A. Well, it probably could be done easy enough in a day under the weather conditions that prevailed out there. There may have been other times that it couldn't be done if the swell had been a little greater it could not be done.

Q. Taking the conditions as they existed out there, you think it could have been done in one day if the Inter-Island did it?

A. I think so, if the Inter-Island did it.

(Testimony of J. F. Haglund.)

Q. In speaking, Captain, of the possibility of the hawser of the "Mikahala" breaking and her swinging around toward the "Arcona," you were asked to state how long it would take, in your judgment, for the "Mikahala" to get around, to which you answered you thought it would be three or four minutes. Now, I'll ask you in view of your knowledge of the conditions as they existed out there until the time on Wednesday after the "Arcona" had taken the position, which, according to your testimony, she maintained thereafter, how long would it, in your judgment, have been,—have taken the "Arcona" to have gotten out of the way of the "Mikahala" supposing the "Mikahala" were to swing around that way?

Mr. OLSON.—Object to the question on the ground that it doesn't appear that the witness is qualified to answer.

Mr. WARREN.—Withdraw the question and ask you, Captain, how long at least would it, in your judgment, have taken for the "Arcona" to have gotten out of the way?

Mr. OLSON.—Object to the question on the ground that it doesn't appear that the witness is qualified to answer.

The COURT.—The question ought to be limited to elements of [3257—2426] which the witness clearly has knowledge. This is a general question asking for an answer, presuming that he has general knowledge, I don't think he has.

Mr. OLSON.—I understand that the objection is then sustained.



(Testimony of J. F. Haglund.)

The COURT.—I don't see how I can do anything else but sustain the objection at this time unless his qualifications are shown more clearly.

Q. You having on cross-examination, Captain, admitted to counsel that the "Arcona" might have gotten out of the way in three or four minutes, I'll ask you how long, in your judgment, would it have taken the "Mikahala" to have swung around to her anchor had she parted her hawser, under the conditions existing there on Wednesday afternoon?

A. On Wednesday afternoon when the trade wind was blowing it wouldn't have taken the "Mikahala" as long as three or four minutes to swing down upon the "Arcona."

Q. Now, about this preventer in connection with the Miller line and the shackle connecting the Miller wire with the manilla hawser, will you tell us exactly what you observed? Not any conclusions that you've drawn or what you've learned afterwards, but what you saw exactly take place out in the boat when this preventer was rigged?

Mr. OLSON.—Object to the question on the ground it is not proper redirect.

Mr. WEAVER.—Object to the question on the ground it is not proper redirect examination.

The COURT.—I am going to allow that question with the right to the other side to cross-examine upon it if they so desire.

(Question read.)

A. I saw the wire, the end of the wire put in the boat, run underneath the "Celtic Chief's" hawser, the "Miller's" hawser, until he got to the shackle.

(Testimony of J. F. Haglund.)

It was lifted up by the men in the boat. [3258—2427]

Q. What was lifted up?

A. The shackle, the end of his wire was rove through it and the boat was pulled back to the "Celtic Chief" and that ended it.

Q. How long did the boat remain at the shackle?

A. Maybe a minute or two, maybe less. I didn't time them exactly.

Q. Did you see anything else?

A. I saw the end of that wire passed aboard the ship again.

Q. Now, how was that end brought aboard the ship? A. With a small line.

Q. What's that?

A. With a small line, and after that small line attached to the end of the preventer it was brought back on board the "Celtic Chief."

Q. What was done then?

A. It was hauled inboard and made fast.

Q. How long was that line that was attached to the end of it, how much did they pull in before they got the end of that line on deck, approximately?

A. I don't *under* that question clearly.

Q. You say they attached a line to the end of that wire after they put it through the shackle then they rowed back taking the line with them as they rowed?

Mr. OLSON.—I object to the question on the ground it is leading.

Q. Tell us what the boat did coming back.

A. It was hauled back and this line was made fast to the end of the wire. How long it was in feet I couldn't state, but it was long enough to reach where

(Testimony of J. F. Haglund.)

the shackle were, maybe fifty or sixty, maybe more feet from the "Celtic Chief." That was hauled back after and the wire was hauled on board.

Q. Did you see any operations in connection with that preventer down at the shackle after that? [3259—2428] A. No, I did not.

Mr. OLSON.—If that's all on that point, I think this is the proper place to cross-examine. Now then, Captain Haglund, did you actually see the shackle?

A. On the boat gunwhale but not after that.

Q. Where were you?

A. On the stern of the "Celtic Chief."

Q. And you saw this boat go out there?

A. I saw this boat go out there.

Q. And you actually saw the shackle?

A. I saw the shackle but the size of the shackle I couldn't from that distance determine.

Q. Did you see what the men were doing with that shackle? Did you see them handling it?

A. They lifted it up out of the water to reeve this wire. I could see that from the "Celtic Chief."

Q. Are you prepared to state there was nothing else done to that shackle?

A. Not to my knowledge.

Q. You don't know? A. Not after that.

Q. And you didn't see the men do anything else at that time in connection with it?

A. I did not.

Mr. OLSON.—That's all I've got to ask about that.

Mr. WEAVER.—Were you watching this shackle from the "Celtic Chief" after the men had been put-

(Testimony of J. F. Haglund.)

ting on the preventer?

A. The shackle was in the water again.

Q. Had you seen the shackle all the time there-after?

A. Have I seen it after this work was done?

Q. Did you watch that line where the shackle was?

A. No, I couldn't see the shackle after that.

Q. Were you watching them?

A. The shackle was in the water.

Q. Do you know whether it was taken up again?

A. Not that I know of. [3260—2429]

Q. Do you know whether there was any change made or anything done in regard to these lines through the shackle?

A. Not to my knowledge.

Q. Were you looking?

A. I wasn't paying attention.

Q. Weren't you walking around the "Celtic Chief's" main deck after that?

A. On the main deck?

Q. Yes. A. I was all over the ship.

Q. After you saw these, after you saw the line?

A. I say I was around every part of the ship, yes.

Q. When was this preventer put on?

A. I didn't look at the time.

Q. Daylight or night-time? A. Daytime.

Q. Then you don't know whether anything was done with that preventer line after that?

A. I don't, not after that. I only saw it rove through the shackle and the same end put on the "Celtic Chief" again.

Q. Do you know how this preventer was rove through the shackle?

(Testimony of J. F. Haglund.)

A. I don't understand.

Q. Do you know how this preventer was fastened to the shackle from actually seeing?

A. The end rove through the shackle.

Q. How do you know that? A. I saw it.

Q. Did you see the end put through?

A. I certainly did.

Q. I thought you said you didn't see this shackle?

A. After and before it was put on.

Q. You saw it that particular time?

A. At that particular time I saw it maybe for a minute, maybe less.

Q. Do you know how the wire was put through it?

A. The end of the wire was rove through the shackle and a small line bent on and hove back to the "Celtic Chief," the boat and the wire also.

Q. Do you know whether or not there was only the one taken? [3261—2430]

A. I never saw them bring any back.

Q. Do you know whether there was?

A. Not to my knowledge.

Q. Were you looking at that time?

A. I was looking at that particular time.

Q. And you say there was none?

A. I say there was none.

Mr. WEAVER.—That's all.

Mr. WARREN.—Q. On your cross-examination, Captain, speaking of the towing power of the steamer in smooth water and out on the swells, you said the weight of the ship was added and the amount of the swell, like, for example, as you said, the "Likelike"



(Testimony of J. F. Haglund.)

weighing up and down on the bight. I ask you if you can illustrate to the Court what you mean, say by use of a string.

Mr. OLSON.—I don't understand the question yet.

(Question read.)

I object to the question on the ground that it assumes something that is not in the testimony at all.

The COURT.—I don't see that there is any need for that, Mr. Warren. You have the statement, and it seems to me that it's cumulative.

Mr. WARREN.—Your Honor disallows the question?

The COURT.—Yes, I don't see that the question would be of assistance.

Q. In testifying, Captain, that when a ship rises in a swell and thus increases the force which is exerted on a line of which she is a part as in the case of the "Helene" and her line to the "Celtic Chief," and her anchor-chains, I'll ask you how, what factors you take into consideration in judging how much difference the rise of the vessel will make in the effective pull. What governs it?

A. The amount she rises and falls, whatever height it is, and sometimes the swell would have some effect on the line and anchor-chain than it would [3262—2431] in bigger and heavier swells.

Q. Anything else?

A. The swell may be big enough to part the line and the anchor-chain also which happen very often in cases.

Mr. WARREN.—That's all.

(Testimony of J. F. Haglund.)

Recross.

Mr. OLSON.—Q. Was the “Celtic Chief” leaking when she came off the reef? A. I don’t know.

Q. It would have been comparatively easy to find out, would it not? A. I didn’t inquire.

Q. You didn’t inquire? A. I did not.

Q. As far as you know she was not leaking?

A. Not to my knowledge.

Q. You didn’t ascertain or learn that there was anything indicating, that there was anything the matter with her bottom? A. I never heard any.

Q. And you didn’t ascertain of anything during the time that she was on the reef or thereafter?

A. Not that I can remember. I did see the ship sounded several times.

Q. And there was nothing there to indicate that there was any water in her hold?

A. Not that I saw.

Q. At any time? A. Not that I saw.

Q. What does a buoy do, does it sink or float?

A. Sometimes they sink.

Q. Does a buoy that’s a good buoy sink?

A. No.

Q. Also, a vessel is supposed to float and not to sink? A. Supposed to, yes.

Q. Now, the “Helene” was the kind of a vessel that wouldn’t sink at that time, wasn’t she, under the conditions there prevailing?

A. She didn’t sink, no. [3263—2432]

Q. And isn’t it the fact that she was so constructed that she floated and was pointing like an ordinary vessel in good condition?

(Testimony of J. F. Haglund.)

Mr. WARREN.—I admit it.

Q. Isn't that so?      A. So far as I know.

Q. Now, then, Captain Haglund, are you prepared to say that the "Helene's" manilla hawser running from her stern to the "Celtic Chief's" stern was in a straight line, kept in a straight line during the pull of the "Helene"?

A. Good deal straighter than the chains; that I can assure you.

Q. Was it in a straight line?

A. Certainly not.

Q. Now, are you prepared to say that her anchor chains were in a straight line?      A. Certainly not.

Q. Was the "Helene" a weight in the combined line of the chains and her hawser?

A. She was to a certain extent.

Q. Didn't the "Helene's" hawser come up, ascend from its bed to the stern of the vessel?

A. Not so much as the chain by any means.

Q. That isn't the question. I asked if the "Helene's" hawser didn't ascend from its bed to the stern of the "Celtic Chief"?      A. Very little.

Q. It did some, didn't it?

A. Very little, very slightly.

Q. Answer my question?      A. Very slight.

Q. There was a bight in the middle of the rope?

A. There was a bight in the middle of the rope, yes.

Q. How was the stern of the "Helene," in any way *weight* down on the end of that line?

A. By the weight of her anchor-chain pulling her ahead, that's why.

(Testimony of J. F. Haglund.)

Q. Wasn't it holding the end of that line up?

A. I don't understand that question.

Q. Wasn't it holding the end of the line up rather than the [3264—2433] middle of the line?

A. Very little.

Q. Well, it did, didn't it?      A. Very little.

Q. Can't you answer my question?

A. Very little; that's as near as I can answer.

Q. You say it is impossible for you to say?

A. To a foot it is impossible for me to say.

Q. That isn't my question.

A. A small part I have stated.

Mr. OLSON.—I ask the Court to instruct the witness to answer the question whether or not it was held up.

A. Very little; whether it was an inch or a foot I am not able to state.

Q. I asked whether it was held up at all?

A. Maybe not held up at all.

Q. Now, then, Captain, was the "Helene's" line, the bight of the "Helene's" line, at any time, floating or on the surface of the water between the "Celtic Chief" and the "Helene"?

A. It might have been touching the water at times.

Q. Are you prepared to say that it was not, at any time, on the surface of the water?

A. I am prepared to state so, yes.

Q. And it never was?

A. Never? I didn't say so.

Q. I'm asking you if you are prepared to say that it was not at any time?

A. I am not prepared to say. I say that it did—

(Testimony of J. F. Haglund.)

Q. I'm not asking that; that's all I want.

Mr. WARREN.—I ask, your Honor, that the witness be allowed to finish that answer.

A. I want to state to the Court the "Helene's" line was at the "Helene" end only six feet out of the water and at the other end there was twenty or perhaps more than twenty feet out of the water; that kind of formed a considerable [3265—2434] sag without touching the water on a smooth sea.

Q. Did you say it was only six feet above the surface of the water that it went into the "Helene"?

A. Practically about that.

Q. Only six? A. Between six and seven.

Q. Did it go over the stern?

A. Through a hawse-pipe through the stern.

Q. How far below? A. At the main deck line.

Q. How far below the line of the stern?

A. Four feet.

Q. How high is the stern of the "Helene" out of the water? A. Stern?

Q. Yes. A. About ten feet.

Q. That's all? A. From the deck only.

Q. That's all, is it? A. Approximately ten feet.

Q. It wouldn't be more than that? A. No.

Q. Have you any—are you prepared to say, Captain Haglund, that the line of the "Helene" was out of the water even in the middle where the bight was most of the time?

A. I do; I'm prepared to state so.

Q. And that was a twelve-inch manilla hawser?

A. A twelve-inch manilla hawser; a sample lying on the table.



(Testimony of J. F. Haglund.)

Q. Was that true on Wednesday night just prior to the "Celtic Chief's" floating?

A. So far as I know.

Q. And that line did not part?

A. It did not part.

Q. Even though it had deteriorated? I understand you said it had?

A. I didn't see that line in the middle at all times Wednesday night.

Q. What about the anchor-chains of the "Helene"—did they hang in a bight as far as you observed? [3266—2435]

A. As far as I observed it was in a certain bight. It is impossible to tighten a chain. It doesn't matter how much strain you put on it.

Q. Did the bow of the "Helene" hold the end of the anchor-chain up or did it have a tendency to weigh it further down?

A. It undoubtedly weighed it down in the swells.

Q. It had the tendency to help to make the end of that anchor-chain downward?

A. Certainly. Very often you see the chains drag four, five, six, ten feet.

Q. What was it that kept that anchor-chain above sea level?

A. The buoyancy of that ship and strain that was put on it.

Q. The end of that anchor-chain wouldn't have remained above sea level if it hadn't been that the "Helene" kept it up? A. Certainly not.

Q. And the same is true of the hawser, attached to the "Helene," is that not true?

(Testimony of J. F. Haglund.)

A. If it hadn't been fast to the "Helene," if the end—

Q. It would have gone down into the water?

A. Certainly would.

Q. So that the stern of the "Helene" kept the end of the hawser up at the stern of the "Helene" and the bow of the "Helene" kept the anchor-chain out of the water up at her bow?

A. That is true, yes.

Q. So that the "Helene," then, being buoyant in the middle of this continuous line from the "Celtic Chief" to the anchor, kept the end of the hawser up farther out of the water, and the anchor-chain up out of the water, whereas, if the anchor-chain and the line had been fastened together the end, ends would have been off the surface of the water, wouldn't they?

A. The weight of that chain would have dragged the hawser down in the water.

Q. So that the "Helene," then, instead of weighing down on those [3267—2436] lines, tending to shove them down, had the tendency to hold them up, isn't that so?

A. A tendency to hold them up, yes.

Q. Now, then, Captain Haglund, if the anchor-chain and the hawser of the "Helene" had had a combined length long enough so that they could have been joined together, and if they had been hove taut so that they had maintained a straight line from the anchor to the "Celtic Chief," isn't it true that at the point where you have drawn the "Helene" on this diagram which is marked "Libellee's Exhibit

(Testimony of J. F. Haglund.)

#8," that straight line would have run below the water line and underneath the position of the "Helene," isn't that so?

A. Will you repeat that question, please?

(Question read.)

A. No.

Q. Captain Haglund, does the red line on this diagram represent a straight line from the "Helene" anchor position to the stern of the "Celtic Chief" where the "Helene's" line was made fast to her approximately?

A. Well, it does in a certain way, whether that is the scale or not I couldn't tell you.

Q. Haven't you drawn this to scale by means of a ruler which you had here?

A. Very roughly. I couldn't say whether it was a scale or not.

Q. You did it by a scale of one hundred feet to the inch? A. Supposed to be.

Q. And you did it as accurately as you could with an ordinary ruler?

A. So accurate as I could with that ruler? I think so.

Q. Now, then, Captain Haglund, if that is approximately a correct drawing, it is true that that line from the "Helene's" anchor to the "Celtic Chief's" stern would have run underneath the position of the "Helene"?

A. Apparently, according to that scale. [3268—2437]

Q. What reason have you for saying it would not?

A. I don't think it would.

(Testimony of J. F. Haglund.)

Q. Do you think so now?

A. I don't know whether that scale is correct.

Q. Do you think so now?      A. I don't know.

Q. You think that's incorrect, that scale we used?

A. I don't say so. So near as I know that rule that I worked with is correct.

Mr. OLSON.—That's all that I have as to this witness.

Wednesday, November 8, 1911.

Mr. OLSON.—You have no recross, have you?

Mr. WEAVER.—No, I have none.

Mr. OLSON.—As I understand, you are finished with Captain Haglund.

Mr. WARREN.—Yes.

Recess.

Mr. OLSON.—I'm prepared to make some admissions requested by counsel, counsel of both libellants, of all of the libellants, with reference to the marbles and liquor composing a part of the cargo of the "Celtic Chief," as follows:

That the total value of that part of the cargo, marbles and liquor, in Honolulu at the time of the salvage operations, was \$3,001.44; furthermore, that this sum of \$3,001.44 is made up as follows: Value of marbles, \$75.84 and the balance being the value of the liquor.

Now, at the request of counsel for the Inter-Island Steam Navigation Company, I am prepared to admit the following facts which I, upon investigation, am convinced are true and can be easily shown:

That the complement of the "Mauna Kea" at the time of the salvage operations was sixty men and

(Testimony of J. F. Haglund.)

her master; that of the [3269—2438] “Helene,” thirty-one men and her master; that of the “Mikahala,” thirty-five men and her master; that of the “Likelike,” twenty-eight men and her master; and further, that the number of stevedores employed by the Inter-Island Steam Navigation Company in connection with the “Celtic Chief” operations, the compensation paid to whom has already been shown in evidence, was one hundred and thirty-four men.

Mr. WEAVER.—The Miller Salvage Company makes the same admission in regard to the details given.

Mr. OLSON.—I am now prepared to admit, at the requestion of counsel for the Matson Navigation Company, the following facts which I, upon investigation, have found to be true and am convinced can be easily shown in evidence, namely:

That the value of the “Intrepid” at the time of the salvage operations in question was \$30,000.00; that her indicated horse-power was 331; her gross tonnage, 123; her length, 85.5 feet; her breadth, 21.2 feet; her depth, 10.3 feet; and that her complement was 11 men and McAllister who was acting as her master.

Mr. WEAVER.—The Miller Salvage Company makes the same admission.

**[Testimony of A. Lewis, Jr., for Libelants.]**

Direct examination of A. LEWIS, Jr., a witness called on behalf of libellants, and sworn.

Mr. WARREN.—Q. Mr. Lewis, were you present at the operations connected with the salvage of the “Celtic Chief” on the night of Wednesday, Decem-



(Testimony of A. Lewis, Jr.)

ber 8, that being the night she came off, 1909?

A. I was.

Q. What time did you go out that night?

A. I went out in the early part of the evening, arriving on board the "Mikahala" about nine-fifteen.

[3270—2439]

Q. And at that time did you observe the "Arcona"?

A. Shortly after I arrived on board I observed the "Arcona."

Q. How far from the "Mikahala" was the "Arcona" at that time, approximately?

A. I can give you the approximate distance only. To the best of my recollection, in the neighborhood of 150 or 175 feet.

Q. And describe her position further with respect to the "Mikahala."

A. The "Mikahala" when I arrived on board had her bow pointed seaward; the "Arcona" was then on her starboard side. To the best of my recollection, the stern of the "Arcona" would be about on a line with the bow of the "Mikahala," the "Arcona" being on the starboard side of the "Mikahala," the "Arcona" facing, having her bow facing seaward.

Q. Did you, at that time, observe any lines from the "Arcona" to the "Celtic Chief"? A. I did.

Q. Where?

A. I could see a line rather indistinctly from the, leading north from the stern on the port side of the "Arcona," that line to the best of my recollection running down the side of the "Arcona" into the water.

(Testimony of A. Lewis, Jr.)

Q. About how great a distance between the "Arcona" itself and the point where the line went into the water?

A. I couldn't give you that in exact number of feet, but the line—I perhaps can better describe it by saying that the line as it entered the water did not make a very acute angle. I should judge that it was in the neighborhood somewhat—oh, anywhere from along about thirty feet.

Q. Thirty?

A. Thirty feet from where it left the vessel's side.

Q. To where it hit the water?

A. To where it hit the water. The line approached slightly the perpendicular, more the perpendicular than the acute.

Q. How many lines at the stern of the "Arcona" would you state?

A. I saw one, to the best of my recollection, the only line that [3271—2440] I could see.

Q. Now, could you observe the "Arcona" line at the "Celtic Chief" end? A. I could.

Q. What time of the evening is covered by your last answer, last two answers?

A. The time of the evening to which I refer would be, or rather is, from nine-fifteen P. M. until ten P. M.

Q. Now, will you go on? During that interval tell us if you saw these lines at the "Celtic Chief" end.

A. I saw during this same period of time, that is, from nine-fifteen to ten-fifteen, I saw rather indistinctly a line which I took to be the "Arcona's" line

(Testimony of A. Lewis, Jr.)

because I knew the "Arcona's" line was a wire approaching and leading up to the starboard side near the stern of the "Celtic Chief," the "Celtic Chief's" bow being pointed shoreward, inshore.

Q. How frequently did you observe the line of the "Arcona" prior to ten-fifteen? A. Ten o'clock.

Q. Ten o'clock.

A. Oh, I should say at least four or five times.

Q. And about what intervals?

A. Entirely during that period, between nine-fifteen or shortly after nine-fifteen and ten.

Q. Did you, at any time, observe any change in them? A. I did not.

Q. Do you know whether or not there was any change?

A. I was seated, I can answer that while I was seated in a chair on the deck of the "Mikahala" for a portion of the time between nine-fifteen and ten o'clock and I looked at those lines and I should say that I know pretty well that there was no change in those lines between nine-fifteen and ten o'clock.

Q. At ten o'clock what did you do?

A. At ten o'clock I spoke to one of the stewards. I don't know that he is a steward, one of the seamen or a steward on board of [3272—2441] the "Mikahala," and told him I was going to lie down for awhile and told him to awaken me or call me along about quarter-past eleven or half-past eleven.

Q. What did you do?

A. After talking to the steward I then went to one of the berths on the "Mikahala" and lay down.

Q. When did you next come on deck?

(Testimony of A. Lewis, Jr.)

A. Between quarter-past eleven and eleven-thirty P. M. of the same evening.

Q. Did you, at that time, observe the "Arcona"?

A. I did and at that particular time I had a better opportunity of observing the "Arcona."

Q. Why?

A. There was a search-light on at that time.

Q. Had you seen that search-light before you come out, before you went in at ten o'clock?

A. Before I went in at ten o'clock there was no search-light then.

Q. Describe the position of the "Arcona" as you saw it then.

A. There was absolutely no change in the "Arcona" from the time that I came out between quarter-past nine and eleven-thirty and when I retired at ten o'clock.

Q. Describe her lines at that time as far as you saw them.

A. The lines were exactly in the same position as they were and which I had noticed prior to my retiring, that is, the line leading down over the side of the "Arcona" went into the water near the perpendicular and coming out on the other side, on the starboard side of the "Celtic Chief" also entered, came out of the water and approached the side near the perpendicular.

Q. How many lines in all could you see at the stern of the "Celtic Chief"?

A. First, beginning with the starboard side I saw the two lines of the "Mikahala."

Q. I mean at the "Arcona."

(Testimony of A. Lewis, Jr.)

A. Oh, at the "Arcona," I beg your pardon. I could see only the one line. Now, as I recollect it, that line which led from the port side of the "Arcona."

Q. Now, could you see any lines then at the stern of the "Celtic [3273—2442] Chief"?

A. I did.

Q. Will you tell us what lines you saw there?

A. Beginning from the starboard side I saw the two lines of the "Mikahala." I saw the wire of the "Arcona" and then there was a very large, I won't say very large, but there was a hawser hanging over the stern of the "Arcona," I think, near the—

Q. "Celtic Chief"?

A. "Celtic Chief," near the starboard side, hanging directly perpendicular down into the water, giving me the impression that it was simply hanging there leading nowhere. Then I could see indistinctly one line over toward the port side, but I'm not sure about two but I can remember at least one line over toward the port side and to the stern of the "Celtic Chief."

Q. Now, referring to the line you have mentioned as the "Arcona" line, describe the position of that as you saw it.

Mr. OLSON.—Object to the question on the ground it has already been asked and answered.

Q. At that time after eleven-fifteen.

Mr. OLSON.—Same objection, if the Court please.

The COURT.—Objection overruled.

A. The line was exactly the same position as I first noticed it hanging, running from the starboard side of the "Arcona" near the stern.



(Testimony of A. Lewis, Jr.)

Q. Of the "Arcona"?

A. Of the "Celtic Chief" down into the water; more nearly, not exactly perpendicular.

Q. About how much?

Mr. OLSON.—Let him finish.

A. Not exactly perpendicular but making more of a perpendicular, that is the angle, as it entered the water, approached nearer the perpendicular than a more acute angle.

Q. About how much of the line of the "Arcona" was out of the water at the "Celtic Chief" end according to your best judgment?

A. I wouldn't want to give that in the exact number of feet. [3274—2443]

Q. Never mind the exact; as near as you can estimate.

A. Oh, somewhere between say 40 and 60 feet; that is, beginning from where it entered the side.

Q. When did you first observe any motion on the part of the "Celtic Chief" that night, motion of any kind.

A. In the neighborhood of a quarter to twelve to the best of my recollection.

Q. Describe the motion as you saw it.

A. Well, the vessel seemed to show a little bit of life prior to the time, prior to that time. She was simply practically motionless, was lying on the reef and then it appeared to me that about that time there was a trifle more swell; the swell was not very high, just a little bit of a swell, seemed to be increasing just a trifle and there was simply a slight movement on board the "Celtic Chief." I then tried to

(Testimony of A. Lewis, Jr.)

line up the stanchion on the stern of the "Mikahala" with a light on shore to see whether the vessel was moving seaward at all. A few minutes after that it seemed to me that there was a perceptible motion seaward.

Q. Now, describe the seaward motion as you observed it from that time on.

A. From that time on it seemed to me that the vessel became a trifle more lively. Lining up the stanchion with a light on shore, the vessel would apparently go seaward and then stick and remain there for a short period of time and then later on move a trifle more and then stick until the swell increasing a trifle she began to wobble about more, and along somewhere in the neighborhood of between twelve and twelve-twenty, twelve twenty-five or twelve-fifteen, along about that time, with a very perceptible motion, in fact, quite a reasonably quick motion, the vessel left the reef.

Q. Now, prior to the "Celtic Chief" coming off the reef, how frequently after eleven-fifteen while the search-light was on, did you observe the "Arcona" lines at the stern of the "Arcona"?

Mr. OLSON.—Object to the question on the ground that it assumes [3275—2444] that the witness observed lines of the "Arcona."

Q. How frequently did you observe any line at the stern of the "Arcona"?

A. At the stern of the "Arcona," I should say that I observed it once or twice. I saw no particular change. My attention, however, after twelve-fifteen, after say between eleven-fifteen and eleven-

(Testimony of A. Lewis, Jr.)

twenty, was more directly directed toward the stern of the "Celtic Chief." However, I did observe the lines at the stern of the "Arcona." I saw no change.

Q. Do you know whether or not there was any change?

Mr. OLSON.—I object on the ground that the witness has fully covered that in his last answer.

Mr. WARREN.—I withdraw that question and ask you after eleven-fifteen that night while the "Celtic Chief" was on, how frequently did you observe the line or lines of the "Arcona" at the "Celtic Chief" end prior to the ship coming off?

A. I can answer that in this way: I was out there to see what the various vessels who were engaged in the "Celtic Chief" operations were doing. I have had some little experience in the trying of salvage cases, being the attorney for the Inter-Island Steam Navigation Co. in a number of its salvage operations I was, at that time, counsel for the Inter-Island Steam Navigation Co. I directed my attention to the lines of the "Arcona" as well as the lines of the other salving vessels. I occasionally looked at the lines of the "Arcona" to see what she was doing. I looked at those lines, that line, as it approached the "Celtic Chief," quite frequently during that period.

Mr. WARREN.—I'd like to ask your Honor to have stricken from the record, the answer as not responsive.

Mr. OLSON.—In view of the fact that counsel is anxious to have this part of the witness' answer stricken from the record, and in view of the fact

(Testimony of A. Lewis, Jr.)

that I shall later bring this matter out, I consent to the motion.

Mr. WARREN.—Then I withdraw the motion.  
[3276—2445]

The COURT.—The Court will allow the matter to stand.

A. I gave the answer in the form in which I did because counsel seemed to wish to retain among themselves some reason for my expressing my knowledge of the conditions as they existed out there and I wished to place upon the record the reasons why I happened to make these particular observations.

Q. Now, will you tell us, Mr. Lewis, how frequently you did observe the lines of the "Arcona" at the "Celtic Chief"?

A. Quite frequently. I should say very frequently during that period.

Q. Did you, at any time, notice any change of their positions prior to the ship coming off?

A. I did not.

Mr. OLSON.—I object very decidedly to counsel assuming that this witness saw more than one line of the "Arcona."

Q. How frequently did you observe that one line at the "Celtic Chief" end?

A. Quite frequently; in fact, very frequently.

Q. And do you know whether or not there was any change in the position of that line?

A. There was no change.

Q. In what direction did the "Celtic Chief" move in coming off the reef?

(Testimony of A. Lewis, Jr.)

A. As she left the reef she moved directly toward, directly seaward toward the stern of the German cruiser, "Arcona."

Q. How near did she approach the stern of the "Arcona" and in what way?

A. As I have heretofore stated, when she left the reef she was headed directly toward the stern of the "Arcona," the "Mikahala" had a line attached to the "Arcona."

Mr. WARREN.—To the "Celtic Chief."

A. To the "Celtic Chief," and as the "Celtic Chief" approached the "Arcona" the "Mikahala" by means of that line pulled the "Celtic Chief" to the port side of the "Arcona." The nearest that any part of the "Celtic Chief" approached that of the "Arcona," I should judge, [3277—2446] would be in the neighborhood of 50 feet. The "Mikahala" continued pulling on her line until she had pulled the "Celtic Chief" into a position where the "Celtic Chief" had passed the stern of the "Arcona"; that is, the stern of the "Celtic Chief" had passed the stern of the "Arcona." The "Arcona's" stern was inshore as compared to the stern of the "Celtic Chief."

Mr. OLSON.—The bow of the "Celtic Chief"?

A. I wouldn't want to say that it was not far.

Mr. WARREN.—Where was the "Mikahala" when you made this observation, in what direction from the "Celtic Chief"?

A. She was naturally off shore, pointed seaward, towing the "Celtic Chief" seaward.

Q. I'm not talking about the "Arcona."



(Testimony of A. Lewis, Jr.)

A. No, her hawser was taut, the "Celtic Chief" was, until the "Celtic Chief" had got into position, until she was toward the Ewa side of the "Mikahala." In other words, the "Mikahala" in pulling veered very decidedly to her port side and headed out to port in fact, until the "Celtic Chief" got into a position so that she was not exactly, but almost exactly, between the "Mikahala" and the "Arcona."

Q. When did you first observe any movement of the "Arcona"?

A. I'm not sure as to the hour but about the time that the "Celtic Chief" had occupied the position opposite and passed the stern of the "Arcona."

Mr. WARREN.—Cross-examine.

Cross-examination of A. LEWIS, JR., on Behalf of Libelee.

Mr. OLSON.—Q. Mr. Lewis, you were the attorney directly in charge of the institution of the suit by the Inter-Island Steam Navigation Co. in this case, were you not?

A. I was. Very shortly after that time I retired from the practice of law. [3278—2447]

Q. You were also the attorney directly in charge of the institution of the suit on behalf of the Matson Navigation Co. in this case? A. I was.

Q. You prepared the libel in each of those cases, did you? A. I did.

Q. And you were attending at the "Celtic Chief" operations in the way that you have described as the attorney of the Inter-Island Steam Navigation Co.?

A. I was.

(Testimony of A. Lewis, Jr.)

Q. For the purpose of preparing yourself for a possible suit such as was begun by you on its behalf later? A. I was.

Q. In the early part of this litigation, you, as the attorney of the Inter-Island Steam Navigation Co. and Matson Navigation Co. appeared in the taking of the depositions of the, of certain officers of the "Celtic Chief," did you not? A. I did.

Q. And it was only after the suit had been begun and some of the evidence taken in the form of depositions that you retired as counsel for these two libellants? A. That is true.

Q. The reason for your retiring as counsel for these companies was because of your retiring from the active practice of law in Honolulu, in order to undertake a business life as distinguished from a professionally life; isn't that true?

A. That is correct.

Q. Have you any connection whatever with the Inter-Island Steam Navigation Co. at the present time? A. I have.

Q. What is that connection?

A. I am a stockholder.

Q. Will you state how large a stockholder you are? A. I think I have thirty shares.

Q. And what is the par value of those shares? Par value? [3279—2448]

A. \$100.00 per share. A capitalization of two hundred—a quarter of millions.

Q. Do you represent any of the other shareholders of the Inter-Island Steam Navigation Co. at the

(Testimony of A. Lewis, Jr.)

present time? A. I do.

Q. Will you state how many shares you represent in a representative capacity?

A. Oh, somewhere between 200 and 250.

Q. Between 200 and 250 shares? A. Yes.

Q. The same par value as those that you own yourself? A. Yes.

Q. You are the managing officer, are you, of the Bank of Hawaii, Ltd.?

A. I am vice-president and manager of the Bank of Hawaii.

Q. Is that bank in any way interested in the Inter-Island Steam Navigation Co.?

A. I believe that the Bank of Hawaii, as well as some of the other banks in Honolulu have banking interests with the Inter-Island Steam Navigation Co.

Q. In other words, the Inter-Island Steam Navigation Co. carries an account in your bank. I do not wish to appear inquisitive, but to what extent? Is it a trifling account?

A. I can answer that question by saying that I consider the Inter-Island Steam Navigation Co. a ——— of the Bank of Hawaii.

Q. One of your important patrons?

A. I should say so.

Q. Is the Bank of Hawaii in any other way interested in the Inter-Island Steam Navigation Co. through the ownership of stock of that company or in holding collateral, as collateral shares of stock?

A. According to our law here, we can only take stock in payment of debt and after a limited period

(Testimony of A. Lewis, Jr.)

of time shall be compelled to sell that stock.

Q. Do you have any within that limitation?

A. We have no stock, hold no stock in the Inter-Island Steam [3280—2449] Navigation Co.

Q. Do you hold any as collateral security?

A. I think we hold a few shares of stock as collateral; nothing which would in any way influence—

Q. That is not the question and I ask to strike on the ground that it is not responsive to the question. I further add as a ground for my motion that it is a conclusion of the witness.

The COURT.—The motion is granted.

Q. Are you connected with any other person in a representative, representative or any other way, in a representative capacity or otherwise that is interested in the Inter-Island Steam Navigation Co., Ltd.?

A. I don't think I can answer the question because I don't quite understand it, Mr. Olson.

Q. I mean to say, are you as an officer or in any other representative capacity and for any other concern than the Bank of Hawaii and other than the representative that you have testified to already, connected with any other concern that is interested in the Inter-Island Steam Navigation Co.?

A. At the present time, not to my knowledge. It may be, but not as far as I know. I think I have covered the ground of my representation that I have heretofore testified about.

Q. Does your family own any stock?

A. The stock which my family owns in connection with the Inter-Island Navigation Co. has been covered in the answer that I heretofore gave to you that

(Testimony of A. Lewis, Jr.)

I represented a certain number of shares in a representative capacity.

Q. Do you represent any other holder of the company outside of your family?     A. I do.

Mr. WARREN.—Object to the question as asked and answered.

The COURT.—The objection is overruled.

A. I do, but it has already been covered in my previous answer.

Q. Now, you stated that you represented between 200 and 250 shares of the capital stock of the Inter-Island Steam Navigation Co. [3281—2450] Will you state what proportion of that is owned by your family?

A. I don't know what I represent.

Q. I'm sorry to go into these personal matters, but at the same time I am obliged to do so, Mr. Lewis.

A. I am perfectly willing to tell you.

Q. Approximately if you can't give it exactly.

A. I should say between myself and my family, in the neighborhood of 130 shares.

Q. You were a member of the law firm of Smith and Lewis while you were acting for the Matson Navigation Co. and the Inter-Island Steam Navigation Co. in the institution of this suit, were you not?

A. Yes.

Q. You were a partner in that firm?     A. I was.

Q. Will you state whether or not you have any pecuniary interest in the compensation to be paid for the services rendered to those two libellants in connection with this suit?



(Testimony of A. Lewis, Jr.)

A. I really couldn't say at this time, but my recollection is that I don't think I have. I'd really want to refer to the old books of Smith & Lewis to ascertain that fact, but if I do have any interest in it, it would be a slight interest.

Q. It would be a proportion of the fee, would it not, to be paid if that has not yet been paid, if that has not yet been settled between you and your partner, Mr. Smith, who is still one of the counsel for the libellants in this case?

A. It would be, but I cannot say in the final settlement I have had, we have settled this. I am inclined to think I have, but I'd rather say I'm not sure.

Q. You remember, do you not, Mr. Lewis, that it was a cloudy night—in fact, so cloudy that neither the moon if there was a moon at that time or the stars were shining?

A. I should say that it was a moonlit night, but it was not a bright night. [3282—2451]

Q. Don't you think that the sky was actually cloudy?

A. I think it was a little hazy. I don't think the sky was entirely overcast.

Q. Don't you remember that it was a sultry night?

A. It was a sultry night; typical southerly weather here.

Q. There was scarcely any breeze blowing?

A. I didn't notice any breeze; in fact, very little, if any.

Q. You've testified to a swell that was running;

(Testimony of A. Lewis, Jr.)

did you observe that swell from the time that you first went out?

A. I didn't notice any when I first went out; not in that particular locality. Up closer to the "Arcona" there is more or less of a ground swell.

Q. "Celtic Chief," you mean?

A. "Celtic Chief," but out where the "Mikahala" lay there wasn't much of a swell. I might say it was the beginning of the swell always more or less running out there.

Q. That is, there was a slight disturbance of the water but it didn't amount to anything.

A. That is my recollection.

Q. Was it a swell that was especially noticeable even up around the "Celtic Chief"?

A. When I first went out I don't believe the swell was what you would call a large swell or even a moderate swell along the "Celtic Chief" when I first went out there about nine o'clock.

Q. Now, you've testified that after, sometime after eleven o'clock, I believe you said about eleven forty-five, you first began to notice that the "Celtic Chief" began to be more lively and from that time onward this was noticeable; is that correct?

A. That's correct.

Q. And you also observed that there was some little increase in the size of these swells; is that correct or did I misunderstand you?

A. That is correct.

Q. When you say there was a little increase in the size of the swells, do you mean to say that prior to that time when they [3283—2452] would not

(Testimony of A. Lewis, Jr.)

have been moderate swells that they had now become moderate swells?

A. To give it more precisely, I should say the swell was a little past moderate.

Q. They weren't breaking around the "Celtic Chief"?

A. There was—no, it wouldn't all spray on the counter or the starboard quarter. Further on the "Celtic Chief" there was a good swell.

Q. You remember, do you not, the lightering of cargo had ceased about eleven-thirty?

Mr. WARREN.—I object to that as improper cross-examination, your Honor.

The COURT.—I overrule the objection.

A. I have no definite knowledge as to when the lightering ceased.

Q. Well, then, I'll ask you if you do not remember that it had ceased approximately three-quarters of an hour or thereabouts prior to the floating of the "Celtic Chief"?

Mr. WARREN.—Same objection.

The COURT.—Same ruling.

A. I can answer your question by saying that I didn't see any lighterage going on, didn't notice any lighterage going on.

Q. During that period of time?

A. After half-past eleven, I would say.

Q. Comparing the bow of the "Arcona" with the bow of the "Mikahala," will you state which way, if there was any difference at all, the "Arcona's" bow was pointing prior to the "Celtic Chief" beginning to come off?

(Testimony of A. Lewis, Jr.)

A. To answer that question, Mr. Olson, I should have to ask you to definitely fix the time. Prior might mean any time.

Q. When did the "Mikahala" first vary its position from what it had at the time that you came aboard her until about nine o'clock or shortly thereafter?

A. I came on board at nine-fifteen and up to ten o'clock, the time I retired, I didn't remember that the [3284—2453] "Mikahala" changed her position up to that time. I think I rose from the berth along about, as I say, somewhere between eleven-fifteen and eleven-thirty and I didn't notice particularly whether the "Mikahala" had changed her position at that time. She may have.

Q. It wasn't so material a change that it brought itself to your attention at any rate if there was a change?

A. Well, she could have moved. For instance, she could have moved several degrees one way or the other without my particularly noticing it because I remember very well when I got on deck my attention was directly wholly to the ship, to the "Celtic Chief." When I had retired there was no search-light playing and when I arrived upon deck this search-light was playing and my attention was first directed to the "Celtic Chief" and whether or not the "Mikahala" had changed her position, I would not say one way or the other.

Q. It would not be more than the change that you might ordinarily expect from the varying back and forth of the towing steamer under the influence of

(Testimony of A. Lewis, Jr.)

her propeller? A. It might have been.

Q. Now, then, with reference to the position of the "Mikahala" as she lay from nine-fifteen until the time that you retired, which you say was about ten o'clock, how was the "Arcona" pointing as compared to the direction in which the "Mikahala" was pointing?

A. To the best of my recollection, the "Arcona" was pointed directly seaward.

Q. If a line were drawn through the "Arcona" on to the "Celtic Chief," the "Mikahala" would be a trifle to the starboard of the "Celtic Chief"?

A. To the starboard of the "Celtic Chief" and to the port of the "Arcona."

Q. So that the angle made by two lines extended through the two vessels would show the bows of the two vessels farther apart than the sterns of the two vessels? [3285—2454] A. I should say so.

Q. That is before, that is between nine-fifteen and ten. And except for any change of the "Mikahala" one way or the other, the same would be true, wouldn't it, until the "Mikahala" began to veer off to the side in order to pull the "Celtic Chief" clear of the "Arcona," isn't that so?

A. I can't testify as to that. As I say, when I came on board when I rose from the bunk at eleven-fifteen, I can't testify as to how the "Mikahala" was headed with reference to how she was headed before that time, whether there had been any change. I wouldn't want to say on way or the other.

Q. Where in the superstructure of the "Arcona" was the search-light they used that night?

A. I don't think, as a matter of fact, I could an-



(Testimony of A. Lewis, Jr.)

swer that question, and at the present time I cannot, it's passed out of my mind.

Q. You can't even remember whether it was the stern of the vessel or at the bow of the vessel or amidship?

A. It wasn't at the bow of the vessel approximately; it was out of the way and somewhere between port and starboard sides, but just now as to fixing that light in a point between the bow and the stern I confess I am unable to do so.

Q. You remember, do you not, that the German vessel was a cruiser?      A. I do.

Q. And like the ordinary cruiser has a bridge that rises up amidships?

A. I should say so in the natural order of events there was a search-light on the bridge.

Q. After eleven-thirty it sufficiently lighted up the situation so that you were able to see to better advantage the lines which passed from the "Arcona's" stern down alongside of the vessel into the water?

A. If you will let me answer that question by comparison I think I can get at what you are after. When I arrived there at nine-fifteen there were a number of lights around; there were lights aboard the cruiser and lights aboard [3286—2455] "Mikahala" and ordinary lights around the "Arcona," the "Celtic Chief," they gave, they showed more or less light. When the search-light was turned on, my recollection is that that light was thrown right straight at the "Celtic Chief." You could see her masts and see, in fact, pretty much the whole of the "Celtic Chief." It was not directed down. It seemed to be directed straight out right at the "Cel-

(Testimony of A. Lewis, Jr.)

tic Chief"; some of the rays running off at different angles permitted me to see to better advantage the lines as they left the "Arcona" and the lines, as it, the lines as they came aboard the "Celtic Chief."

Q. Isn't it a fact, Mr. Lewis, that after that search-light came on it was more difficult to see the line passing from the stern of the "Arcona" down into the water than it was prior thereto?

A. Not to my knowledge.

Q. The contrast did not accentuate the darkness in that vicinity?

A. The shaft of light as it left the search-light on board the "Arcona," to my knowledge, did not approach the water immediately about the "Arcona" to such an extent that it prevented me from seeing the water immediately around the stern of the "Arcona."

Q. And your recollection is that it lighted up rather than accentuated the darkness?

A. So far as that portion is concerned, immediately about the stern of the "Arcona."

Q. You are perfectly clear about that so that there is no question about that in your own mind?

A. That's my present recollection.

Q. What kind of a line was this line that you observed used by the "Arcona"?

A. As near as I could judge, it was wire, a wire hawser.

Q. You could see that, could you, from the "Mikahala"?

A. As I have heretofore stated, when I first came aboard I had to look more closely to distinguish it. It was more or less indistinct as I have heretofore

(Testimony of A. Lewis, Jr.)

testified. Between nine-fifteen [3287—2456] and ten o'clock—I would not want to testify definitely—I think I could distinguish another of the "Arcona's" lines as it approached the "Celtic Chief." That's why I qualified my answer by saying that I could not testify definitely as to both. I thought I saw the other.

Q. Do you remember where the line on the star-board side of the "Celtic Chief" entered the "Celtic Chief"? At what part of the vessel?

A. Well, as near as I can recollect it seemed to run along, it seemed to be over the "Mikahala's" line and entered the "Celtic Chief" up over the side.

Q. About amidships?

A. Well, at least—I wouldn't want to testify definitely—it was at least, it was not immediately on the stern, it would be more likely amidships where it finally entered. I wouldn't want to testify definitely. I should say it entered some chock or entered an aperture pretty well off the stern.

Q. You observed the "Celtic Chief" pretty carefully and know approximately her length?

A. I did at one time. I couldn't tell you now.

Q. You know it was over 250 feet?

A. I should say she was about that.

Q. Then the point where this line entered the bulwark of the "Celtic Chief" would be at least 125 or 20 feet forward of the stern of the "Celtic Chief"?

A. As I remember the "Celtic Chief," she was higher at the stern, and if you take a point at the extreme overhand of the vessel to where I should say the wire entered the side of the vessel, it would be at least the distance that you mentioned.

(Testimony of A. Lewis, Jr.)

Q. Now, the point at which you think it struck the water was, therefore, forward also of the stern of the vessel; isn't that so?

A. At the angle at which I observed that it would be difficult for me to say whether the point at which that line entered the water was inshore from the extreme overhand or within that proximity or whether it was little [3288—2457] farther out from the extreme part of the overhand and where the vessel you might say left the water.

Q. Then when you saw the line of the "Arcona" on the other side, which you said a few moments ago, which you thought you were able to distinguish, if you saw that looking from the angle at which the "Mikahala" was pulling at the "Celtic Chief," it must have been true, if that was the "Arcona's" line, that it entered the water at a point farther out to sea than the other?

A. That's why I say that I would not say that I did see the line.

Q. But if you did see it that that is true?

A. I doubt very much whether I saw it.

Q. I'd like you to answer the question. If it was a line of the "Arcona," then it entered the water at a point further seaward than the other?

A. I testified definitely that I did not see the "Arcona's" line as it approached the "Celtic Chief," enter the water.

Q. And you couldn't see it unless it entered the water at a point further seaward than the other one?

A. Yes.

Q. You spoke of a wire hanging from the stern of

(Testimony of A. Lewis, Jr.)

the "Arcona," of the "Celtic Chief" entering the water directly over her stern?

A. I said a hawser, not a wire.

Q. Oh, a hawser? A. Manilla hawser.

Q. Was that a manilla hawser that looked something like these samples that we have in this suit? I am now referring to Libellants' Exhibit "P" and Libellants' Exhibit "O."

A. It was a good-sized hawser.

Q. And that's all you saw of it? A. Yes.

Q. Didn't you see anything else in connection with it? A. Not that I remember.

Q. Didn't see a wire line hanging down alongside of it? A. No, I did not. [3289—2458]

Q. Well, you were observing pretty carefully after the search-light came on, after you had taken your nap, the situation and you also observed this line, did you not? A. Which line?

Q. The line concerning which you have just been testifying.

A. Yes, my attention was particularly directed after 11:15 to that hawser hanging over the stern.

Q. And, of course, you could see in view of this light, you could see it very clearly? A. Yes.

Q. And there was no wire line attached to it as far as you could see?

A. I couldn't say that there was.

Q. So that if the Miller Salvage Co. had a line hanging over the stern of the "Celtic Chief" which consisted of a ten-inch manilla hawser together with a wire line in the shape of a preventer, about an inch or so in diameter, two pieces of it, running alongside



(Testimony of A. Lewis, Jr.)

of that manilla hawser, that would not be the hawser that you saw? A. I should say not.

Q. You didn't see a large wire line other than the "Arcona's" wire line running over the stern of the "Celtic Chief," did you, at any time?

A. Hanging over the stern, no.

Q. Did you see a large wire line of that kind that I have just described at any time in the course of the proceedings out there about the "Celtic Chief"?

A. I think I did.

Q. You think you did? A. Yes.

Q. When did you see that?

A. I noticed that along about the same time that I did the other.

Q. That would be when you first came up on deck?

A. When I first came on deck.

Q. That was about 11:15? A. Yes.

Q. And where was that?

A. Came around the stern.

Q. On which side of the "Celtic Chief"?

A. My recollection is now that that was nearer the end of the stern than the other.

Q. How was that line hanging with reference to the horizontal surface of the water?

A. My recollection of it is a little [3290—2459] more acute than the other.

Q. Little more acute than the manilla hawser?

A. Than the manilla hawser.

Q. Where was that line with reference to the manilla hawser?

A. It seemed to me that it was quite as I recollect it, quite a distance away from it. The manilla haw-

(Testimony of A. Lewis, Jr.)

ser was running down in a perpendicular. And this other was quite a way from it.

Q. Did you notice a shackle in that line?

A. I don't think I could testify that I noticed a shackle at that distance.

Q. About the time that the "Celtic Chief" was nearing its final—after it had been lively for some fifteen or twenty minutes or so, did you observe these two lines, this wire hawser and this manilla hawser concerning which you have just been testifying?

A. I think so.

Q. Was there any change that you observed in either of them?

A. No, I think they retained their respective positions.

Q. Did you observe the manilla hawser just prior to the floating of the "Celtic Chief"? A. Yes.

Q. When she finally came off? A. Yes.

Q. And it didn't change its position? A. No.

Q. And the same is true of the wire hawser?

A. No, the wire hawser entered the water just the same.

Q. Just the same?

A. There seemed to me to be no connection between the two.

Q. Were you watching the "Celtic Chief" pretty closely after she actually was afloat and was going toward the "Arcona"? A. Very much.

Q. What happened to those two lines, this manilla hawser and this wire line that you saw there?  
[3291—2460]

A. From that time on my attention was directly centered upon the "Mikahala's" lines.

(Testimony of A. Lewis, Jr.)

Q. And you weren't paying any attention to the others? A. No, I didn't.

Q. Do you know where the—do you remember or could you determine by anything that you observed there that evening the direction of the "Arcona's" anchor-chain?

A. I can't give you any information at all on that scene of the operations. After eleven o'clock, for instance, when I arose, after eleven o'clock I didn't go up on the forward part of the vessel on the "Mikahala" and look at the anchor-chains of the "Arcona" or even the forward anchor of the "Mikahala."

Q. And not prior to that time? A. No, I didn't.

Q. I believe you testified that the "Mikahala's" position was such that her bow was practically in line with the end of the stern of the "Arcona," that is, when you came aboard of the "Mikahala" at 9:15 or thereabouts?

A. What I meant to convey was that if a line were drawn from the stern of the "Celtic Chief," I should say that the bow of the "Mikahala"—

Q. Of the "Mikahala"? You mean the "Arcona"?

A. The "Arcona," that that line would practically come near the bow of the "Mikahala," might be a trifle seaward of it; more likely to be seaward than landward.

Q. What was this liveliness that you observed about 11:45 on the part of the "Celtic Chief"? What did it consist of?

A. At first it was only just perceptible, that was all; I had been watching it very steadily when I first rose to see whether or not she was moving and then

(Testimony of A. Lewis, Jr.)

it seemed to me along about 12 o'clock that she seemed to move a little bit, shake and tremble. That was the first motion that I noticed. It was not a very perceptible motion. [3292—2461]

Q. It wasn't a motion from which you could detect that she was moving seaward any without reference to any landmark? A. No, I could not.

Q. Prior to that time she hadn't been bumping, as far as you could observe?

A. Not as far as I could observe.

Q. She was practically still?

A. There might have been a very slight, very, very slight movement with the swell, but practically none.

Q. That might have been due to the movement of the "Mikahala" herself, might it not?

A. That might have been due to the "Mikahala."

Q. What was this range light that you took for the purpose of making an observation whether or not she was moving?

A. It has passed from my memory.

Q. It was a light on shore?

A. It was a light on shore.

Q. Was it nearer a half a mile or farther?

A. It is passed from my memory.

Q. It wasn't a hundred yards?

A. Oh, no, it wasn't.

Q. It was a good distance away?

A. Far distance.

Q. Quarter of a mile at least?

A. I should say so.

Q. How did you use that and the stanchion as a range?

A. Well, I think I got—my recollection is I took

(Testimony of A. Lewis, Jr.)

some portion of the superstructure and the stanchion and the light. On that my memory isn't clear now as to whether I did that or got some other object on the shore behind the light.

Q. Now, judging from that, how much do you think the "Celtic Chief" moved the first time that you took the observation of her having moved some distance and then stopped again?

A. I could give absolutely no impression on that because the change of the light was so small that I couldn't give you any idea. [3293—2462]

Q. When you say it was so small, what do you mean by that? Do you mean that the variation between this, if it was a stanchion or some other object and the light, was so slight that you would not be able to tell how much it was? A. I could not.

Q. As a matter of fact, the change might have been due to the "Mikahala" herself?

A. I was about to say that if the "Mikahala" had shifted her position it would have produced the same result.

Q. By that you mean if she had shifted her position from side to side as well as forward?

A. Certainly. It was simply a surmise of mine that she was moving.

Q. The first actual movement that you are positive of is when she began rapidly to come off and moved toward the "Arcona"?

A. The best of my recollection is that at least when she, at least when there was a motion seaward which was perceptible by looking at some observation. Of course, that again might have been caused by the shaking of the "Mikahala's" position, but I should



(Testimony of A. Lewis, Jr.)

say at least one during that period of time I could say definitely she had moved, a movement of several feet away astern and she sure must have moved that time.

Q. How long was that before she finally floated?

A. Just a short time.

Q. Five or ten minutes?

A. Just about that, that period of time. You see this is sometime ago, Mr. Olson. My recollection of these matters isn't as good now as it was a year ago.

Q. When you prepared the libel, for example? Now, Mr. Lewis, the "Celtic Chief," according to your testimony, at the time that she had come alongside of the "Arcona's" stern, was, according to your judgment, about 50 feet from her? Am I right in that understanding of your testimony?

A. I should say that the nearest point on the "Arcona" to the nearest point on the "Celtic Chief" was a distance which was as near as 50 feet.

Q. How soon was it that the "Mikahala" began to draw the "Celtic [3294—2463] Chief" over to the starboard of the "Celtic Chief" after she had proceeded in this line toward the "Arcona"?

A. That is a very difficult question to answer both as to time and as to space, as to distance. Probably I can simply give you my impression as I have a picture before my mind's eye now. The "Celtic Chief" left the reef that night with a rapid motion when she left, straight out, and I should say that the whole of the vessel left the reef and started straight out before the pulling of the "Mikahala" had veered the "Celtic Chief" about to the port side of the "Arcona." However, after she had travelled a short

(Testimony of A. Lewis, Jr.)

distance or a reasonable distance from her berth on the reef, she then shook and twisted, or rather not, "and twisted," but she then just curved so that as we were going forward on the "Mikahala" we could see that the "Celtic Chief" was veering around and at one time you could look sort of—for a few seconds—sort of between the "Celtic Chief" and the "Arcona." That was just toward the end.

Q. Was the "Mikahala" at the time that the "Celtic Chief" came alongside of the stern of the "Arcona," pointing as much as at right angles to the "Arcona" at that time? A. In her final position?

Q. Before the line was cast off. Was it at right angles at the time the "Celtic Chief" came alongside the "Arcona"?

A. When she got alongside the angle was more acute. When she got her position, as far as we were concerned our line was going at right angles to that of the "Celtic Chief."

Q. I am not sure that I understand that. You mean to say she was already getting that position at the time the "Celtic Chief" had got near the stern?

A. Yes. It is difficult to give you the exact distance and to give you the exact time. As much as I'd like to, I can't do it. I just give you the picture as it appears to me now.

Q. Who else was with you on the "Mikahala" that evening aside [3295—2464] from the regular crew of the "Mikahala"? A. Mr. J. A. Dowsett.

Mr. WARREN.—J. M.

A. J. M. Dowsett, Mr. Kennedy, the manager of the Inter-Island and president, and I think Mr. G. N. Wilcox. These were the persons with me.

(Testimony of A. Lewis, Jr.)

Q. And all of these men are directly interested in the Inter-Island Steam Navigation Co. as directors?

A. I think the three gentlemen are directors.

Q. And all of them are stockholders?

A. To my knowledge as far as I know they are.

Q. And except for Mr. Kennedy, large stockholders?

Mr. WARREN.—I object to that as improper cross-examination.

A. I can simply say that as hearsay.

The COURT.—I allow the question.

A. I think we all know that pretty well.

Q. You don't know that Mr. Wilcox and Mr. Dowsett are large stockholders of the company?

A. I have never seen their certificates of stock with their names on them and I haven't seen the stock ledger, but I think it is pretty well known that both of those gentlemen are large stockholders of the Inter-Island.

Q. And you so understood at the time that you went on the "Mikahala" with them?

Mr. WARREN.—Same objection.

The COURT.—Same ruling.

A. I didn't understand that question.

Q. You understood that they were large stockholders?

A. I never had any understanding with them.

Q. You believed that they were?

A. The matter never entered my mind.

Q. You regarded them as such?

A. I didn't regard them at all as stockholders. The fact that those two men were large stock-

(Testimony of A. Lewis, Jr.)

holders never entered my mind. [3296—2465]

Q. At that time you knew that they were as much as you know now that they are large stockholders?

A. I have never heard of their parting with any holdings that they had.

Q. And this general knowledge that you have referred to existed at this time so that you were just as much aware of the fact that they were large stockholders as you are now? So that this ——— that you entered upon at that time was a company made up of persons so far as you knew all interested in the Inter-Island Navigation Co. and its affairs?

A. As far as I know, my attention wasn't directed to that particular point at all.

Q. That isn't the point. The point is, isn't it the fact that they were all men interested in the Inter-Island and its affairs?

A. I think I have already answered your question.

Mr. WARREN.—I object to the question as asked and answered, your Honor.

The COURT.—I allow the question.

A. Do I know now?

Q. Yes, you know that, don't you?

A. Why certainly, I know it.

Mr. OLSON.—I have no further questions.

Mr. WARREN.—Subject to one or two matters which I believe we can get together on, I rest my case at this time.

Recess.

Mr. OLSON.—I am willing to stipulate that the testimony of C. L. Wight taken before Judge Robertson in this case be regarded as having been taken

before the present Judge hearing this case and the record as shown by the transcript of that evidence may be [3297—2466] considered by the Judge in this case as if having been taken before him.

Mr. WARREN.—Do you make the same agreement, Mr. Weaver?

Mr. WEAVER.—Yes.

Mr. OLSON.—I now offer in evidence the deposition of Captain Henry, John Henry, Master of the "Celtic Chief," taken before Harold G. Spencer, a United States Commissioner for the Territory of Hawaii.

(Mr. Olson reads deposition.) [3298—2467]

Wednesday, December 20, 1911.

In the matter of the reading of the deposition of J. LOWRY.

Page 203.

Mr. WARREN.—Referring now, your Honor, to page 6 of this deposition and particularly to lines 18 to 29, inclusive, and lines 1 to 5, inclusive, of page 7, I move to strike as constituting hearsay and a conclusion of the witness.

The COURT.—I will overrule the objection.

Mr. WARREN.—I object to the question appearing on page 7 reading as follows: "Are you familiar with the sale of vessels of the class of the 'Celtic Chief' that have been made on this coast within the last few years?" upon the ground that it appears that the witness has no personal knowledge of transactions of this kind.

The COURT.—I will overrule the objection.

Mr. WARREN.—On page 9, I move to strike the



answer of the witness to the question which reads, "What was the price?" I move to strike the answer, "I am not positive, but the record was that it was \$10,000.00," upon the ground that it appears that the witness got that price from a broker who had it in hand and that was his information.

The COURT.—Those words are stricken out by consent.

Mr. WARREN.—Then also on page 9, referring to the ship "Robert Duncan," the witness was asked this question, "What was she bought for?" to which the witness responded, "The agents informed me, \$18,000.00." I move to strike the answer as hearsay.

Mr. OLSON.—I'll consent to that too.

Mr. WARREN.—Referring to page 10, the witness was asked the [3299—2468] question, "Can you give us any specific instance of recorded sales in foreign ports of ships in this class and approximately of the age of the 'Celtic Chief'?" I object to the question and to the witness being allowed to answer any question on the ground that it is incompetent and immaterial; that sales, recorded sales of vessels in foreign ports, have no bearing on the value of sales, of vessels in the port of Honolulu and at least on the Pacific coast.

The COURT.—I will overrule the objection. If you find a case on this point, Mr. Warren, I will reconsider the matter.

Mr. WARREN.—Then on page 10, the following question to which objection is taken, the witness replied, "Yes, I have a list here which were kept on file from the 'Fair Play'."

Q. Will you please refer to that list there and give

me the names of ships that have been sold of that class and approximately that age, in foreign markets and the time they were sold? Now, I object to this, the witness' giving any testimony taken from any such memorandum, on the ground that it is not the best evidence, in the first place; hearsay, in the second place; and it is incompetent for a witness giving testimony in a deposition to get his information which he make no pretense of having in his own mind and no pretense of refreshing his mind, to read from other documents.

That objection lays to all the testimony on this question on page 10; all the testimony on page 11 down to the middle of page 12, concluding with the words, "that about completes my list."

Mr. OLSON.—Counsel agree that I may offer all of the contents in the pages which have been objected to in this testimony as a true copy of excerpts from the original numbers of "Fair Play," which have already been referred to in this deposition as a recognized shipping journal. I consent to the sustaining of the objection just entered to the testimony appearing on [3300—2469] pages, the latter half of page 10, 11, and the middle of page 12, as referred to in the objection, but I now offer in evidence all of the matters therein contained as appear in the files, regular files of the journal, "Fair Play."

Mr. WARREN.—As counsel says, I have no objection to these excerpts being introduced upon counsel's statement that they tally, but I object to the evidence being received here at all, for the reason that papers of this sort cannot serve at the outset to qualify a witness in forming an opinion as to the

vessel's worth in this market or that market.

Mr. WEAVER.—I join in this objection on the ground that it is immaterial; the introduction of these facts are immaterial.

Mr. WARREN.—Add to my objection the ground that instances of specific sales are not admissible to prove value.

The COURT.—I will overrule the objection, but it's not a point that I feel very clear upon. It comes within my discretion, of course.

Mr. WARREN.—I am willing, your Honor, that the evidence offered and received over my objection, may be considered in connection with the testimony of the deposition of Captain Pillsbury which we are now reading.

Mr. WEAVER.—Same for the Miller Salvage Co.

The COURT.—That stipulation is approved.

Mr. WARREN.—Now, on page 13, your Honor, I move to strike the answer of the witness, "I should think there would be none except for use as a coal hull," that being in response to the question, "Do you know whether or not there would be a market in Honolulu?" upon the ground that it doesn't appear that the witness is qualified to answer the question and is his own conclusion.

The COURT.—I will permit the answer; I overrule the objection.

Mr. WARREN.—On page 15, object to the question put to the witness beginning with the words, "What is your judgment, Captain, [3301—2470] of the sound value at the port of Honolulu in December, 1909, of a British iron sailing vessel?" and so forth, and ending with the words, "either above or

below decks," upon the ground that it doesn't appear that the witness is qualified to answer it; it doesn't appear that he ever bought or sold a single vessel; it doesn't appear that his information as to values of vessels is based on anything but records except on two vessels where he attended the sales and upon his own admissions they were forced sales, marshal's sales.

The COURT.—I'll overrule the objection.

Mr. WARREN.—I wish to move to strike all of his testimony on the ground that it doesn't appear that he is qualified as an expert and that his knowledge of values is based on hearsay in all cases which were referred to except two which were forced sales on his own admission.

The COURT.—The motion is denied.

Mr. WARREN.—In view of the testimony on cross-examination, your Honor, on page 16, that in all of the cases testified to by him on direct examination he had personal knowledge of the prices only in two cases, his opinion of prices of vessels should be stricken, it appearing that he had no personal knowledge and his information was entirely hearsay.

Mr. OLSON.—I have no objection to the "Polytach" going out; that is, the record of her sale, \$17,500.00.

Thursday, December 21, 1911.

Mr. WARREN.—Now, your Honor, I move to strike the answer of the witness last read appearing on page 20 of this deposition upon the ground that it is a conclusion of the witness; it doesn't appear that it is based on any facts.

The COURT.—I deny the motion.

Mr. WARREN.—I move now to strike the answer last read, your Honor, as being partly conclusion and partly absolutely hearsay [3302—2471] on his own statement.

Mr. OLSON.—I have no objection to the first sentence going out.

The COURT.—The last sentence will be stricken.

Mr. WARREN.—I'd like here to renew my motion to strike the testimony of this witness on the ground that it appears on conclusion of the cross-examination that he is not qualified and that the testimony is not based on facts or his own experience, but gathered from hearsay from many sources.

The COURT.—That motion is denied.

Mr. OLSON.—I now offer the deposition of Captain A. F. Pillsbury in evidence.

The COURT.—It will be received.

Mr. WARREN.—I wish to have my objection to this entered on the record on the ground that the witness has not been qualified as an expert as the testimony itself shows, and that the testimony is based on hearsay and conclusion and not on his own experience.

Mr. WEAVER.—I enter the same objection.

The COURT.—That objection is overruled in both instances.

Mr. WARREN.—I move to strike that answer, your Honor, as being a conclusion of the witness and not based on his own experience. The answer of the witness on page 23, "Well, I presume I do not know exactly what they did," and concluding with the words, "as compared with the cargo."

Mr. OLSON.—I have no objection to that being stricken.



Mr. WARREN.—I would like to have the answer last read stricken, on page 28, beginning with the words, "That information I do not quite know," and concluding with the words, "I think he will give you the exact information."

Mr. OLSON.—I have no objection to that.

Mr. WARREN.—I move to strike the answer of the witness on page 28 respecting the sale of the "Battle Abbey," it appearing that the witness has no knowledge of his own on the subject and has [3303—2472] gathered the information subsequently from someone else.

Mr. OLSON.—I make it an explicit matter of record that this testimony objected to is not offered for the purpose of showing that this vessel or what these vessels sold for, but for the purpose of qualifying the witness and for the purpose of showing the date upon which his information is based. That is my offer.

Mr. WARREN.—I object to the offer upon the grounds already stated, your Honor, that it's not entitled to consideration by this Court for any purpose whatever so far as the testimony of this witness is concerned.

Mr. WEAVER.—I object to this offer for the same reason.

Mr. OLSON.—In view of Mr. Eacheu's testimony, I shall now, to avoid any further delay on this point, consent to the striking out of the testimony objected to, just objected to.

(Testimony read in this deposition with reference to the Pope Tullock.)

Mr. WARREN.—Same objection to that, your Honor.

Mr. WEAVER.—I object to this for the same reason; it is mere hearsay.

Mr. WARREN.—I think to save time I'll withdraw the objection at this time and renew it on cross-examination where the situation is brought out.

Mr. WEAVER.—I withdraw my objection.

Mr. OLSON.—I am perfectly willing to have that "Dromeo" go out.

Mr. OLSON.—Now, if the Court please, I assume that the same objection will be made here as was made to Captain Pillsbury's testimony, this list of foreign sales. I am willing that the testimony of Captain Medcalfe appearing on pages 30, 31, and 32, giving the particulars of sales of vessels in foreign ports, be stricken as a part of this deposition, but I now, at this time, offer all of the particulars of such foreign sales as appearing in this deposition on pages 30, 31, and 32, [3304—2473] to be read in connection with the testimony in this deposition of Captain Medcalfe, as being the particulars appearing in the commercial lists of sales appearing in "Fair Play," which has already been referred to as a standard shipping journal; offer "Fair Play" and also the "Liverpool Journal" accounts, it being stipulated by counsel, opposing counsel, that these particulars may be offered in lieu of the original parts of this journal, they waiving their objection to the nonproduction of the journals, however, saving their objection to the admissibility of the testimony.

Mr. WARREN.—I consent to the substitution of these items, if the Court please, of the original journals, but I renew my objection to the admissibility of them on the ground stated in respect to the offer

of "Fair Play" in the case of Captain Pillsbury's testimony.

Mr. WEAVER.—On behalf of the Miller Salvage Co. we admit this testimony in lieu of copies of the journal and insist upon my objection that the same are incompetent, irrelevant, and immaterial as evidence.

The COURT.—The objection is overruled in each case.

Mr. WARREN.—We object to the question upon the ground that the captain has not been shown to have any knowledge of the facts; upon the further ground that it assumes a fact that has not been established in the record, and upon the further ground that the captain has not been qualified to testify.

The COURT.—The objection is overruled.

(The following question was read: "Q. What would be the value of the ship if she did not have new masts?")

Mr. WARREN.—Same objection.

Mr. WARREN.—I'll withdraw that objection.

Mr. WEAVER.—Miller Salvage Co. withdraw their objection.

Mr. WARREN.—We object to that on the same ground as stated heretofore, that the witness is not qualified, in the first place; that it's immaterial; this witness can't assume to pass on the [3305—2474] price of a hypothetical vessel when there's absolutely nothing stated about conditions.

The COURT.—The objection is overruled.

Mr. WARREN.—I move to strike on page 39 the answer of the witness beginning, "Were going out

of the ship business.”

Mr. OLSON.—I am perfectly willing to have that answer go out.

Mr. WARREN.—I make the same motion to that answer. (Being the next answer read after the one just stricken.)

The COURT.—I think I will allow that.

Mr. WARREN.—Referring to page 40, the testimony of Captain Medcalfe, I move to strike the answer of the witness beginning with the words, “Well, you can put it down as a starting basis,” and concluding with the words, “has taken Lloyds register and looked him up,” upon the ground that it is purely a voluntary conclusion of the witness and not based on any information.

The COURT.—I will overrule the objection.

Mr. WARREN.—Now, in view of the last two answers just read, I wish to move to strike the testimony of this witness as to the “Battle Abbey” appearing on page 28, “The Demero” on page 28, and the ——— page 29, on this witness’ own admission that he has no knowledge of these sales.

Mr. OLSON.—If the Court please, the “Battle Abbey” has already been stricken.

Mr. WARREN.—I’ll add to my motion the “Hawaiian Isles,” page 28 and 29, and the “Kaiulani” on page 29. Then I move to strike the entire testimony as to all of these vessels for the reason that it does not appear that he has personal knowledge in any single instance.

The COURT.—We will adjourn to to-morrow morning at nine o’clock.

Friday, December 22, 1911.

The COURT.—The testimony on cross-examination, it seems to me, is uncertain which items the witness is testifying to on direct [3306—2475] examination of his own knowledge. As to the items except as to the "Kaiulani," whose name was changed, of which the witness testified in another place, I will sustain the objection.

Mr. WARREN.—That is, grant the motion to strike?

The COURT.—Yes.

Mr. WARREN.—Your Honor grants the motion to strike as to all except the "Kaiulani"?

The COURT.—Yes.

Mr. WARREN.—I think, your Honor, that last remark on page 44 should be stricken.

The COURT.—The motion is denied.

Mr. WARREN.—I move to strike that answer, your Honor, on page 45, "I know it from my experience, practical experience," should go out of the testimony.

The COURT.—If you read the rest of it, Mr. Warren, I think you'll see he testifies this of his own knowledge. I'll suspend the ruling.

Mr. WARREN.—Now, your Honor, I move to strike from the testimony of this witness all the witness' answers appearing on page 45 of this deposition upon the ground that the witness himself and by his answers indicates that he does not know this except from his experience and the conclusion at the end of the testimony. I know that should be taken simply as the ordinary statement of a person who knows because he considers himself reliably informed.



The COURT.—I overrule the objection.

Mr. WARREN.—I'd like to renew my motion to strike from the testimony of this witness all of his testimony appearing on pages 39 and 40 beginning with the answer "Yes, because there is no remuneration for them," on page 39, and including two lines on page 40, upon the grounds that it appears by the testimony of the witness on cross-examination that this is simply hearsay. [3307—2476]

The COURT.—I deny the motion. The deposition of J. Medcalfe is received in evidence.

Mr. OLSON.—I now complete my offer of the testimony of J. Medcalfe in evidence.

Mr. WARREN.—I object to the offer, your Honor, on the ground that this witness by his own testimony discloses that he has absolutely no knowledge of values of ships on the Pacific Coast from his own experience; that his sole information is on hearsay, and his knowledge has been confined to one or two instances of sales which he has attended and he has not identified those sales, and that testimony has been stricken. My objection includes that he is not qualified to pass on value of vessels at Honolulu.

The COURT.—The motion is denied.

Mr. WEAVER.—The record will show that we make the same objection.

Mr. OLSON.—I now offer the deposition of JAMES C. ESCHEU, beginning on page 45 of this transcript.

Mr. WARREN.—I move to strike the answer of the witness appearing on page 48 as to the "Battle Abbey," "Well they told me."

The COURT.—It is so ordered.

Mr. WARREN.—I move to strike the answer on page 49, your Honor, "No, not true, it was around \$40,000.00," it appearing that the witness was not personally informed that the sale was made in England. (Argument by counsel and Court.)

Mr. OLSON.—The motion is then denied, your Honor?

The COURT.—Yes.

Mr. WARREN.—We object to the question for the reason that it is apparently directed to a valuation of the "Celtic Chief," the witness has not been shown to have any particular knowledge of the vessel as she lay in Honolulu; and for the further reason that the witness has not been qualified as an expert to pass upon the value of the vessel. [3308—2477]

The COURT.—Objection overruled.

Mr. OLSON.—That's a question appearing on the bottom of page 50.

Mr. WARREN.—I move to strike that answer your Honor.

Mr. OLSON.—I have no objection, your Honor; all the testimony concerning the "Battle Abbey" is stricken.

Mr. WARREN.—The answer of the witness appearing on page 54 as to the condition of the "Battle Abbey"; the answer beginning, "She had been kept up very well," and concluding, "He said she was in pretty good shape." Is the motion granted, your Honor?

The COURT.—Yes.

Mr. OLSON.—I object to the question on page 54 reading, "Would you sell her for \$20,000.00 if you

could get that?" on the ground it is incompetent, irrelevant, and immaterial.

The COURT.—I will overrule the objection.

Mr. OLSON.—I offer the deposition of James Escheu in evidence.

The COURT.—It is received in evidence.

Mr. WARREN.—I would like to enter an objection to the offer upon the ground that it doesn't appear that the witness is qualified to testify as to the value of a ship in the port of Honolulu.

Mr. WEAVER.—Same objection on behalf of the Miller Salvage Co.

Mr. OLSON.—I take it, the objection is overruled.

The COURT.—Yes.

Mr. OLSON.—I offer the deposition. I offer in evidence the deposition of WM. WALTER KELLOCK, which was taken under a commission by Carl R. Luke, Consular General of the United States of America, at London.

Mr. WARREN.—To which offer we object on the ground that it does not appear that the witness is qualified to testify as to the value of a ship of the class and character of the "Celtic Chief" in Honolulu or on the Pacific Coast.

Mr. WEAVER.—We make the same objection on behalf of the Miller [3309—2478] Salvage Co.

The COURT.—The deposition is received in evidence; the objection is overruled in each case.

Mr. OLSON.—I now offer the deposition of JOHN HUGHES in evidence.

Mr. WARREN.—To which offer we object on the ground that it does not appear that the witness is qualified as an expert to testify or express an opin-

ion as to the value of ships of the class and character of the "Celtic Chief" in Honolulu or on the Pacific Coast.

Mr. WEAVER.—The same objection we make on behalf of the Miller Salvage Co.

Thursday, December 28, 1911.

Mr. OLSON.—I'd like to offer the deposition of HERMAN SCHROEDER, and I'll complete my offer upon the final reading of the deposition.

Mr. WARREN.—Now, your Honor, I'd like to move to strike the portion of this answer which reads, "By that means the 'Celtic Chief' was floated, through the rising tide about eleven-thirty P. M." as being a conclusion of the witness, an opinion upon matter on which he is not qualified to testify, not having qualifications heretofore required of a witness by this Court.

Mr. WEAVER.—The Miller Salvage Co. make the same motion for the same reasons.

Mr. OLSON.—We admit that the captain is not qualified to testify. I'm willing that the words, "By that means," etc., be stricken and also the words, "Through the rising tide." I am perfectly willing to have the whole clause go out as a matter of fact.

Mr. WEAVER.—I move to strike on the ground that this is hearsay the words, "After the captain of the 'Celtic Chief' told me." [3310—2479

Mr. WARREN.—I join in that motion, your Honor.

Mr. OLSON.—I have no objection to its being stricken out.

The COURT.—Beginning with the words, "The captain," to the end of the paragraph; is that right?

Mr. OLSON.—Yes, and part of the answer in response to interrogatory No. 11.

Mr. WARREN.—I wish to interpose an objection at this time to any answer of the witness being allowed to this question for the reason that it appears by the testimony that he is not qualified to answer. I state further and call attention more particularly to the following points: First, no salvage experience of the witness has been shown; second, that he knows the tonnage and horse-power of the “Arcona” only by hearsay; that point will more particularly appear on cross-examination; he is ignorant of the agencies at work on the vessel; he knows nothing of the Miller anchor except as he stated in answer to direct question 12; in answer to direct interrogatory 36 he said he did not see anything; in answer to direct question No. 30, he does not know what power was exerted on his lines and did not know the power of the engines which he said were hauling on these hawsers, his own engines; in answer to direct question No. 34, respecting the steamers, he said I do not know what various steamers and I do not know what they did; further, he doesn’t appear to know the weight of the “Celtic Chief” and he doesn’t appear to know the weight of its cargo nor how much was taken out.

Mr. OLSON.—I have no objection to the answer going out without admitting the soundness of the objections.

Mr. WEAVER.—The answer, then, is stricken, your Honor, to direct interrogatory No. 13?

The COURT.—Yes.

Mr. WARREN.—In view of that answer, I move to strike the answer to direct interrogatory No. 6



where he has assumed to state the tonnage and horse-power of the "Arcona." [3311—2480]

Mr. OLSON.—If counsel insists on that point I now give notice of taking of the deposition of some officer of the German empire or Government who is competent to give us the records from the German navy. I now move at this time that a ——— issue to the naval department or some officer of the naval department, his name to be furnished later, we can get it by cablegram or otherwise, for the purpose of getting this information.

Mr. WARREN.—We object to the motion, your Honor, and the notice, upon the ground that it comes too late; testimony has been taken; this testimony has been on file in this court and these witnesses were interrogated directly on these subjects and if it appears that they don't know it doesn't follow, as a matter of course, that because a witness' deposition fails that another deposition can issue.

Mr. OLSON.—I'm willing to have it stricken out here if he will now stipulate in the record that it can be shown that her tonnage is what he testified to and her horse-power.

Mr. WARREN.—I'm willing to do that. What I want to do is to have it out of the record in the testimony of this witness.

Mr. OLSON.—I have no objection to the answer to direct interrogatory No. 6 being stricken, it being stipulated by counsel that the tonnage of the "Arcona" was 3,100 tons and her horse-power 8,000.

Mr. WARREN.—Accept counsel's statement that that is a fact and so stipulate.

The COURT.—Stricken by consent under stipulation shown in Reporter's notes.

Mr. WEAVER.—The Miller Salvage Co. so stipulate.

Mr. OLSON.—I then withdraw my motion for the taking of the deposition.

Mr. WARREN.—I think, your Honor, the answer to cross-interrogatory [3312—2481] No. 25 should be stricken as not responsive and irrelevant and immaterial.

The COURT.—Objection overruled.

Mr. WARREN.—The objection as to the entire question being overruled, I wish to move that the portion of the answer, "So that they did not get rested," be stricken, it being a conclusion of the witness.

The COURT.—That objection will be overruled.

Mr. WARREN.—I think in view of that answer, your Honor, his answer to direct interrogatory No. 36a in so far as it refers to the condition of the hawesers between the "Arcona" and the "Celtic Chief," should be stricken.

I'd like to renew my motion and make it read to the entire answer No. 36a, in view of the fact that the witness admits that some parts of his testimony are based upon observations that were not made by him personally, that were reported to him by his first lieutenant who made them personally, and the witness does not know what part of the testimony is his own and what was made by others.

The COURT.—I'll overrule the objection.

Mr. OLSON.—Deny the motion.

The COURT.—Deny the motion, yes.

Mr. WEAVER.—It is understood that we take the same objection.

Mr. WARREN.—Move to strike the portion of the answer which reads, "It is said to have been fastened to a seven-ton stone or anchor."

Mr. OLSON.—That being the testimony in response to cross-interrogatory No. 24. That's stricken.

The COURT.—Yes.

Mr. OLSON.—I now, if the Court please, offer the deposition of Herman Schroeder in evidence.

The COURT.—It may be received.

Mr. OLSON.—I next want to take up the deposition of [3313—2482] Lieutenant CONNEMANN.

Now, if the Court please, in dealing with these depositions, I think the rest of the depositions are all taken in German, and by stipulation of counsel the testimony has been translated from German into English by Mr. B. von Damm and that will be, by stipulation of counsel, taken in place of the original German as a correct translation thereof. I now offer the deposition of Felix Maria Connemann in evidence and will complete my offer upon reading the deposition.

Mr. WEAVER.—Object to that, if your Honor please, on the ground it is hearsay, and ask that it be stricken out, it appearing that the witness is not qualified to say.

Mr. WARREN.—Your Honor, I move to strike the answer of the witness Connemann to direct interrogatory No. 10 entirely as to the first part of his

statement, that the "Arcona" pulled the vessel "Celtic Chief" off the reef, upon the ground that it doesn't appear that the witness is qualified or from a point of knowledge of the different agencies at work and the powers exerted by each and conditions necessary to enable any witness to testify as to what pulled the "Celtic Chief" off the reef, and as to the remainder of the answer that it is incompetent and hearsay and a conclusion.

Mr. OLSON.—The latter part of the question I have no objection to that going out.

The COURT.—I'll strike this latter part by consent and the first part I'll leave.

Mr. WEAVER.—Reversing your ruling then?

The COURT.—Yes.

Mr. WARREN.—I wish, referring to what you might call paragraph or topic two, in answer 11 of direct interrogatories to witness Connemann, I move to strike the entire paragraph, the same reading, That the steamers which stood by the "Celtic Chief" and designated A. B. in the different named reports and so on, were, at that time, [3314—2483] unable to hold the "Celtic Chief" from going on the reef and so on. This is incompetent, your Honor, conclusion of the witness, hearsay, he is referring to the report above mentioned, dated December 28 and so on; and as to his saying that they were not able to hold the "Celtic Chief," is purely conclusion and as to his stating the cause of his not being able to hold them is all conclusion.

Mr. OLSON.—I have absolutely no objection to that portion of the answer being stricken out which

reads, "and designated as A and B in report of December 28, 1909."

The COURT.—I think we might leave this to cross-examination.

Mr. WARREN.—Now, I move to strike, your Honor, the answer of the witness Connemann to direct interrogatory No. 12, in so far as it refers to these steamers were apparently small power, being a voluntary statement of this witness with nothing but his conclusion behind it.

Mr. OLSON.—Then the clause in the answer to interrogatory No. 12 reading "were apparently small power," is stricken is that it, your Honor.

The COURT.—Yes, stricken by consent of all parties.

Mr. WARREN.—I think that answer should be stricken as not responsive and incompetent, the answer to direct interrogatory 17.

Mr. OLSON.—It doesn't help us in any way.

Mr. WEAVER.—Same objection to that.

Mr. WEAVER.—I move to strike that out (referring to answer to direct interrogatory 26) as not responsive.

The COURT.—Overrule the objection.

Mr. OLSON.—I think that ought to be taken out. I'm willing to have it stricken; that's the answer to direct interrogatory No. 33.

Mr. WARREN.—Move to strike that out as a conclusion of the witness; he doesn't attempt to testify at all as to what he is asked.

Mr. OLSON.—I'm willing that the last line should go out. [3315—2484]



Mr. WARREN.—Not only the last line, but the last clause; that second sentence.

Mr. OLSON.—I admit that the objection is sound.

Mr. WARREN.—I move to strike that out. (Referring to No. 34.)

Mr. OLSON.—The motion is then denied?

The COURT.—Yes.

Mr. WARREN.—Now, your Honor, I think that answer should be stricken as a conclusion of this witness. I move to strike out that portion of the answer to direct interrogatory 36, “their weak machinery.”

The COURT.—I will strike out the word weak.

Mr. WARREN.—I interpose the same objection to direct No. 38, as heretofore interposed to the same interrogatory to Captain Schroeder on the ground that the witness is not qualified from the standpoint of knowledge of the agencies at work.

Mr. WEAVER.—I base an objection on the same reasons.

The COURT.—I would like to reserve that ruling.

Mr. WARREN.—Referring now, your Honor, to the witness' answer to cross-interrogatory No. 6, I move first to strike from it all reference to matters contained in the report of December 28, 1909.

The COURT.—The first sentence in paragraph 6?

Mr. WARREN.—The first sentence of the answer, the paragraph numbered two.

Mr. OLSON.—Your Honor was referring to the first paragraph. I have no objection to the first three or four lines going out, that is, the first sentence ending up, “and which I have prepared jointly

in connection with the commander of the 'Arcona.' "

Mr. WARREN.—That, then, will be stricken, your Honor?

The COURT.—Yes.

Mr. WARREN.—Then the first two lines of the paragraph numbered two reading, "That the steamers A. and B. mentioned in the report [3316—2485] were unable to hold the 'Celtic Chief,' for the reasons set forth therein" upon the ground that it is not proper.

Mr. OLSON.—Then, if the Court please, I'm perfectly willing that the words for reasons set forth therein go out.

The COURT.—Answer to cross-interrogatory number 6, paragraph numbered two, the words "for reasons set forth therein" are stricken.

Mr. WARREN.—Now, I move to strike the last two lines of this paragraph two, as being not responsive to the question, opinion and a conclusion.

Mr. WEAVER.—The Miller Salvage Co. joins in this motion.

Mr. OLSON.—I have no objection to that going out.

The COURT.—That is in answer to the same interrogatory; the words at the end of paragraph two are stricken.

Mr. WARREN.—I move to strike paragraph 5 of this answer as being not responsive.

The COURT.—Subsection 5 in answer to cross-interrogatory No. 6 is stricken.

Mr. WARREN.—Now, I move to strike subparagraph 8 as a whole, your Honor, it being used upon

conclusions and hearsay as shown by the latter part of it.

Mr. OLSON.—I have no objection to that going out. I consent to it being stricken; subsection 8 of the answer to cross-interrogatory No. 6.

The COURT.—The whole thing.

Mr. WARREN.—Also to subparagraph 10, your Honor, upon the ground that it's all hearsay.

Mr. OLSON.—I've no objection to that. 11 can go out also.

The COURT.—Eleven goes out by consent.

Friday, December 29, 1911.

Mr. WARREN.—I move that the answer to cross-interrogatory No. 8 be stricken. [3317—2486]

Mr. OLSON.—No objection.

Mr. WARREN.—Make the same motion as to answer No. 10; not responsive.

Mr. OLSON.—No objection.

Mr. WARREN.—I move that the witness' answer to cross-interrogatory No. 17 be stricken as incompetent.

Mr. OLSON.—I have no objection to it being stricken.

Mr. WARREN.—I move that the second sentence of the answer to cross-interrogatory No. 31 be stricken.

Mr. OLSON.—I have no objection.

Mr. WARREN.—I'd like at this time to save any matter of right in the premises, to renew my objections and motions to strike the answers of the witness to direct interrogatories No. 10, the portion of No. 11 heretofore indicated, and No. 38, to which I assume your Honor will reserve your ruling until the cross-examination is entirely concluded.

(Reading of cross-interrogatories on behalf of Miller Salvage Co.)

Mr. WARREN.—Your Honor, I move to strike the first sentence of the witness' answer to cross-interrogatory 10 X as being a conclusion and not responsive in any way.

The COURT.—I will deny the motion.

Mr. WARREN.—Now, your Honor, I move to strike the second sentence in answer to No. 13-X as being an opinion and not admissible.

Mr. WEAVER.—I move to strike on the ground that it is not responsive and that it calls for a conclusion of the witness in a matter in which he is not proved to be an expert.

The COURT.—This really is the same question that I reserved a ruling on in another matter. I will reserve this also.

Mr. WARREN.—I move to strike from the witness' answer to cross-interrogatory No. 19-X the portion reading, "as we succeeded in floating her in the manner last mentioned before that time," upon the ground that it is an opinion of the witness on a matter upon which he is not qualified to testify; it is not responsive [3318—2487] and not competent.

Mr. WEAVER.—My motion is addressed to the same phases.

The COURT.—I will leave that with the others; it is reserved.

Mr. WARREN.—I now renew my objections heretofore stated on the questions where your Honor has reserved the ruling on the testimony of the witness.

Mr. OLSON.—Put down Mr. Warren's statement

this is not a motion to strike.

Mr. WARREN.—It certainly is not a motion to strike; it is an objection to the witness' answer to this interrogatory.

Mr. OLSON.—Put it down there that this is an objection to direct interrogatory No. 38.

The COURT.—The statement of all these reserved ruling requires some consideration of what is sufficient to qualify an expert and also what facts have established that he is an expert; what facts must be taken into consideration in getting his opinion.

Mr. OLSON.—I offer the deposition of Felix Maria Connemann, which has just been read, subject to the reserved rulings, in evidence.

The COURT.—It may be received in evidence subject to the rulings which have been reserved.

Mr. OLSON.—I'll ask that the translation which the Court has used and on which the rulings have been noted be filed with the deposition. [3319—2488]

Thursday, January 4, 1911.

**[Testimony of Norman Watkins, for Libellee.]**

Direct examination of NORMAN WATKINS, a witness called on behalf of libellee, and sworn.

Mr. OLSON.—Mr. Watkins, your full name is Norman B. Watkins?

A. Norman Watkins; no middle initial.

Q. And you are the manager of the Hawaiian Fertilizer?

A. My title is General Superintendent.

Q. Of the Hawaiian Fertilizer Co., Ltd.?

A. Of the Hawaiian Fertilizer Co., Ltd.

Q. And what is the business of the Hawaiian Fer-



(Testimony of Norman Watkins.)

tilizer Co., Ltd.?      A. Fertilizer manufacturers.

Q. Will you state, Mr. Watkins, how long you have been connected with the Hawaiian Fertilizer Co., Ltd.?

A. Ever since they started business, thirteen years ago this month.

Q. And what had been your occupation prior to that time?

A. Why, prior to that I had a short period at Dover, N. H., as an assistant to my brother in a chemical laboratory, and I followed the sea for a short time.

Q. What is your profession aside from your business in the Hawaiian Fertilizer Co., Ltd.?

A. I was educated as a chemist.

Q. Where did you get your education?

A. At the Massachusetts Institute of Technology, Boston.

Q. How long were you at the Massachusetts Institute of Technology studying chemistry?

A. Three years.

Q. State whether or not you have had any experience as a [3320—2489] chemist.

A. The first three years of my connection with the fertilizer company, the Hawaiian Fertilizer Co., I was the chemist and did chemical work in the laboratory.

Q. And that brought you in contact, did it, with the analysis of fertilizer and ingredients in fertilizer?      A. It did almost every working day.

Q. How long have you been superintendent of the company?

(Testimony of Norman Watkins.)

A. Approximately for the past five years.

Q. And prior to that time?

A. Prior to that time I had charge of the city offices.

Q. And in your present capacity, do you have any personal supervision or otherwise of the chemical work?

A. I have supervision, although I do not do any actual work.

Q. Are you familiar with nitrate of soda as an ingredient in fertilizer used by your company?

A. I am.

Q. Will you state what the solubility is of nitrate of soda?

Mr. WARREN.—Now, your Honor, I object to this as improper rebuttal.

The COURT.—I allow the question. Objection overruled.

Q. Will you state, Mr. Watkins?

A. Please repeat the question, Mr. Reporter.

(Question read.)

A. Nitrate of soda is considered a very, one of the very soluble salts, and as to its degree of solubility, I can state that a hundred parts of nitrate of soda will be dissolved by a hundred parts of water; that is to say, a hundred pounds of water would dissolve a hundred pounds of nitrate of soda.

Q. That's at what temperature of the water?

A. Well, I figured it out at 78°.

Q. And what is the ordinary temperature of the water here, of [3321—2490] the ocean water?

A. 78°.

(Testimony of Norman Watkins.)

Q. Now, do you know what the solubility, degree of solubility of sulphate of potash is?

A. Under the same conditions of temperature, thirteen parts sulphate of potash would be dissolved in a hundred parts of water. That is to say, a hundred pounds of water would—it would require a hundred pounds of water to dissolve thirteen pounds of sulphate of potash.

Q. With the water at the same temperature?

A. With the water at the same temperature.

Q. Can you state the other parts of the cargo of the "Celtic Chief," that double manure salts and what else?

A. Double manure salts and a double super-phosphate.

Q. Will you state whether or not the degree of solubility of those two elements is greater or less than that of sulphate of potash?

A. It is even less soluble than sulphate of potash.

Q. In figuring this degree of solubility or the solubility of these various matters have you taken fresh water or salt water?

A. I have taken fresh water.

Q. What would be the degree of solubility in salt water of the same temperature?

A. Sea water would be a less active solution than fresh water.

Q. That is to say, it would take more salt water?

A. Because the salt water already has a certain amount of salts?

Q. That is, it is already in solution; a certain amount of salts?      A. Yes.

(Testimony of Norman Watkins.)

Q. Do you remember the "Loch Garve" case?

A. I do.

Q. The cargo there was nitrate of soda, was it not?

A. Entirely.

Q. In the "Celtic Chief" the fertilizer that was brought, or the ingredients for fertilizer constituting its cargo, what [3322—2491] were they?

A. There was 1720 long tons of sulphate of potash, 700 long tons of double salts; that is the commercial term, chemically it is a double salt of potash and manure, but its trade name is double manure salts; and a hundred long tons of double super-phosphate.

Q. When was your attention first called to the going ashore of the "Celtic Chief" in December of 1909?

A. On Monday morning, December 5, 1909. I think that's the date, at about, oh, few minutes before eight. I generally go to my office around eight o'clock. A young man working in Brewer's place—we had our offices upstairs before they tore it down—told me that there was a ship on the reef outside, and I inquired of him what ship it was, and he didn't know, and I went to the stevedore office, and they said, "It's your ship, 'Celtic Chief.'"

Q. When you say December 5, might it have been December 6?

A. It may have been. I rather think it was the sixth. I think the fifth was Sunday.

Q. When you spoke of this being your ship, what connection had the Hawaiian Fertilizer Co. with the "Celtic Chief"?

A. The ship and cargo was consigned to us.

(Testimony of Norman Watkins.)

Q. And you were also agents for the vessel?

A. Our firm were agents for the vessel.

Q. Where were the offices of the Hawaiian Fertilizer Co.?

A. On the second floor of the Brewer Building.

Q. Is that building still extant?

A. No, it has been torn down.

Q. That was located where?

A. Why, it was located on Queen Street between Nuuanu and Kaahumanu Street, about midway, right in front of what is now the Matson wharf shed.

Q. Will you state whether or not from your offices or any [3323—2492] part of that building you had a view of the "Celtic Chief" as she was aground?

A. From the back window; that is, a small window over a urinal in the toilet; that is right in the back of the building.

Q. What story?

A. On the second floor. We could see the masts of the "Celtic Chief" over the quarantine shed.

Q. About what distance is the quarantine shed from that point, the point where you observed the "Celtic Chief." I mean the point where you were standing?

A. I don't know as I'm a judge of distance, but I'd say from a quarter to three-eighths of a mile.

Q. And about how far distant from the building that you were in would you say it was to the point where the "Celtic Chief" was aground?

A. From a mile and a half to two miles, as near as I could judge.

Q. Will you state whether or not you took any ob-



(Testimony of Norman Watkins.)

servation of the "Celtic Chief" with reference to any other bearing?

A. Well, after a visit to the "Celtic Chief" in the morning.

Q. About what time?

A. Well, I guess I got aboard the "Celtic Chief" around nine o'clock, possibly a little after, and stayed there possibly a half an hour and when I returned to my office I went out to this back window to see if the vessel could be seen, and I could see it, as I said before, I could see the vessel's masts. Her hull was hidden by the wharf shed. I could see the vessel's masts. It looked at that time as if a yellow flag was floating over the vessel's foremast. I thought it very peculiar, and took a second look, and I found it was a flag-pole on the end of the quarantine shed, and that flag-staff was in direct line with the "Celtic Chief's" foremast, and it appeared that the flag was blowing on the "Celtic Chief."

Q. As a matter of fact, the flag was on the quarantine flag staff?

A. It was after I took a second [3324—2493] look, and I made up my mind at that time that edge of the window casing and that flag staff would form an excellent range for deciding whether the vessel was gaining or losing ground.

Q. You say you have been to sea? A. I have.

Q. State whether or not you take any interest in shipping and vessels.

A. I take more interest in shipping and vessels than anything going. That is my hobby. My mother has five brothers that were shipping masters.

(Testimony of Norman Watkins.)

Q. You were shipping master here in Honolulu?

A. Well, I was shipping commissioner, United States shipping commissioner.

Q. Will you state whether you took any later observation of the "Celtic Chief" from the same point in the Brewer Building?

A. I did, on Wednesday morning, and the reason for my taking the observation was on account of a discussion that I heard on the deck of the "Celtic Chief" on Wednesday morning between Captain Macaulay and Captain Schroeder of the German cruiser. Macaulay maintained that the vessel had not lost any ground, at least had not come further on shore, and the German officers were maintaining that she had.

Q. They were talking in English, were they?

A. Oh, yes. I didn't enter into the conversation at all. I didn't want to say anything, but I was very careful at looking at my range, and I found when I got back to my office and looked out of that back window that the flag, instead of apparently floating from the foremast, was floating from the mainmast. That is, this flag-pole was in exact line with the mainmast on Wednesday morning instead of being in exact line with the foremast.

Q. Is there more than one pole on the quarantine shed or was there at that time?

A. I think not. In fact, I know there has been but one flag-pole. I see it practically every day of [3325—2494] my life on the waterfront.

Q. What was the position approximately of the "Celtic Chief" with reference to you?

(Testimony of Norman Watkins.)

A. Apparently. You could see the three masts; apparently she was broadside.

Q. That is at right angles?

A. She was apparently at right angles. Of course, it is impossible to tell unless you could see the hull. Apparently she was broadside or nearly so.

Q. Do you know approximately the distance between the mainmast and the foremast of the "Celtic Chief"?

A. Why, I should say about seventy feet.

Q. About seventy feet? A. About seventy.

Q. Now, what direction was the foremast pointing with reference to the other masts? Inshore or away from shore?

A. Well, about, it was pointing inshore.

Q. That is to say that—

A. But from my line, of course, the vessel being broadside to me, the bow would naturally be towards Waikiki along that way, possibly closer to the harbor.

Q. Then, with reference to the bearings that you had, this flag-staff with the yellow flag on the quarantine shed and the window from which you took the observation, which way had the mainmast of the "Celtic Chief" moved, inshore or away from shore?

A. It moved inshore.

Q. Which would indicate, would it not, that the "Celtic Chief" had moved inshore just that much?

A. Exactly.

Q. You had seen the "Celtic Chief" at various times, had you not?

A. Why, I was on board of the "Celtic Chief" Monday, Tuesday, and Wednesday. On all days she was on the reef.

(Testimony of Norman Watkins.)

Q. So that you are familiar with what masts she had?

A. Yes, I'm familiar with the rig, a three-masted ship.

Q. As representing the vessel, being superintendent of the agent of the vessel, the Hawaiian Fertilizer Co., Ltd., did you have [3326—2495] any conversations with the commander of the German cruiser, Captain Schroeder, with reference, looking to his taking the German cruiser to aid the "Celtic Chief"?

A. No, those arrangements were made at my request by both the British consul and the German consul.

Q. Did you have any conversations at all with the commander of the "Arcona" with reference to the matter of her assisting the "Celtic Chief"?

A. I had quite a talk with him on the way out.

Q. What day? A. On Tuesday morning.

Q. Will you state what, in substance, that conversation was with reference to the assistance of the "Celtic Chief" by the "Arcona"?

Mr. WARREN.—I object. The witness testified that he had no conversation with him respecting the aid to be rendered by the "Arcona."

The COURT.—The objection is overruled.

A. I had a conversation with the captain going out in the launch and thanked him for the interest he was apparently taking in going out and helping the "Celtic Chief" and he seemed to be very loathe to say anything about it until he had seen conditions. Now, he wouldn't say much about it, but on the way back I began talking with him and asked him if now

(Testimony of Norman Watkins.)

that he had seen conditions that he wasn't perfectly willing to go out right away and he said, no, he'd made up his mind that he would not go right away but he'd wait until the next day and then if the agencies at work had not pulled the ship off he would go out the next morning.

Q. Did he say anything further about that?

A. Well, he, as I say, he seemed to be, he didn't relish the job; that's the impression he gave. He didn't relish the job of going out.

Q. Why?

Mr. WARREN.—Object to that unless the witness can tell us the conversation without giving the reasons.

Q. Did he say anything with reference to the other salving [3327—2496] agents?

Mr. WARREN.—I object to that, your Honor, as its going to be an opinion of this witness.

Q. As to what the other salving agents could or could not do?

A. The whole reason why he wouldn't go out on Tuesday was that he wanted to—

Mr. WARREN.—I think that is an improper question.

The COURT.—If there is any answer of the nature that Mr. Warren objects to I will rule it out.

A. On Tuesday, on the way back he decided that he wouldn't get into the game until the following day and then he would only go in the following day unless—he wouldn't go in the following day unless the agents at work had failed to pull her off at that time.

Q. Did he in any way speak of the other agencies



(Testimony of Norman Watkins.)

or the endeavors of the "Arcona" with the other agencies in the meantime?

A. Why, on the following morning, when we went out again on Wednesday morning, he stated at that time that he wanted the position that the "Intrepid" held and told the captain in my presence, Captain Henry, that he wanted that position and unless that position was made clear for him that he would not take hold.

Q. About what time of day was that, do you remember?

A. Why, it was along about between nine and ten, I should judge, in the morning.

Q. And you were with him during the time that he was on board of the "Celtic Chief"?

A. Why, part of the time he was making observations around and I was with the captain a good deal of the time talking with the captain and every now and then he would come up to ask the captain some question.

Q. You were either with Captain Henry or with the commander of the cruiser on that vessel?

A. Most of the time.

Q. On Monday how many visits did you make out there? A. Two. [3328—2497]

Q. At what time of day?

A. I went out in the morning probably got out to the vessel around nine o'clock and again in the afternoon from three to four o'clock.

Q. Will you state what the, what kind of a sea was running at that time whether there was any swell or anything of that sort?

(Testimony of Norman Watkins.)

A. To my mind on Monday there was quite a heavy swell, although the swell was such that the launch went alongside and we went up the side steps without any difficulty, but I noticed the swell particularly on Monday afternoon. I noticed it particularly the way the "Concord" and the "Kaimiloa" would pull and tug at the lines and the way that they rose and fell, and it seemed to me that there was quite a heavy swell.

Q. Did you have any difficulty in getting off into the launch at all?

A. Well, it was simply a guess on watching your chance; there was no difficulty about it.

Q. Danger?

A. I shouldn't think so. I should say no.

Q. On Tuesday what was the condition?

A. The swell had gone down on Tuesday.

Q. Was there any material swell running on Tuesday?

A. Well, I wouldn't say it was calm, but the swell was materially less on Tuesday than on Monday.

Q. What time were you out there on Tuesday?

A. Why, I was out there in the morning; went out Tuesday morning in the launch of the officers of the "Arcona."

Q. Any difficulty in getting alongside that day?

A. No. We went out Tuesday. As I say, any time out here there is more or less swell; you can't get alongside without watching your chance to take a step.

Q. On Wednesday morning, what was the condition of the swell?

(Testimony of Norman Watkins.)

A. About the same as on Tuesday.

Q. Did you observe any of the cargo being lightered on Wednesday by the Inter-Island Steam Navigation Co. with their small boats? [3329—2498]

A. Yes, there was lightering going on on Tuesday.

Q. Did you observe that particularly with reference to whether or not there was any difficulty in the small boats staying alongside the "Celtic Chief" and receiving cargo?

A. Why, I've seen them going around the Islands and seen them discharging freight and so forth. Why, it was smooth here to what we see every day we take a trip to the other islands.

Mr. WARREN.—Move to strike the answer of the witness as not responsive; a conclusion of his own and comparing this with other conditions.

The COURT.—I deny the motion.

Q. When you compared the discharging with other ports, what do you mean—where you have observed discharging cargo by the Inter-Island Steam Navigation Co. and its boats? A. Yes.

Q. What was the latest time, the last time that you were out at the "Celtic Chief" while she was ashore?

A. Wednesday morning.

Q. About what time? A. Around nine o'clock.

Q. And you returned then to Honolulu, did you, arriving about what time?

A. Well, I was probably out there an hour. Possibly I got back about ten.

Q. And after that you were not out there at all?

A. I was not out at all.

Q. So that you did not observe what was done by

(Testimony of Norman Watkins.)

the "Arcona" after she went out?

A. Absolutely nothing. I am not familiar with her operations out there at all.

Mr. OLSON.—That's all.

Cross-examination of NORMAN WATKINS on Behalf of Libellants Inter-Island Steam Navigation Co. and Matson Navigation Co.

Mr. WARREN.—Q. What is the approximate difference with solvent powers of [3330—2499] powers of salt and fresh water. You say it takes more sea water than fresh to dissolve amounts of nitrate of soda. State just what approximately.

A. Why, the difference would not be great because there is a comparatively small amount of salts held in salt water. The difference would be very slight.

Q. But even if it were there isn't any question in your mind that there is enough sea water there to do the job?

Mr. OLSON.—Object to that as incompetent, irrelevant, and immaterial and on the further ground it is unintelligible.

Add to my objection there that it doesn't appear that the witness, that it is assumed that the witness knows something about the amount of water in the "Celtic Chief" where as there has been no testimony of that sort.

The COURT.—I sustain the objection.

Q. Then I'll ask you another question. I'll ask you to give me, as nearly as you can, the proportion of difference between fresh and salt water to dissolve a hundred pounds of nitrate of soda?

A. Well, I'd say, then, that in my opinion that it



(Testimony of Norman Watkins.)

would take two per cent more salt water to do the work of fresh water.

Q. So that there is no material difference?

A. Just as I testified before, that the difference would be very slight.

Q. And in either case there would practically be no difference if there is an unlimited supply of water.

Mr. OLSON.—Object to the question on the ground that it is indefinite, unintelligible, incompetent, irrelevant, and immaterial.

The COURT.—I'll sustain the objection.

Q. I'll ask you, Mr. Watkins, approximately what length of time would be necessary for, we'll say one hundred pounds of fresh water to dissolve one hundred pounds of nitrate of soda?

A. A hundred pounds of nitrate of soda would go into solution in a hundred pounds of water inside of ten or fifteen minutes.

Q. And the combination when dissolution would be complete would [3331—2500] be of about what consistency?

A. I couldn't give you the specific gravity of it.

Q. Thick or thin; watery or like powder?

A. It wouldn't be as thick as powder; it would be more dense than water, necessarily, but it wouldn't be as heavy as molasses; that is, it would be more liquid than molasses.

Q. Now, if to that composition you should *had* another hundred pounds of nitrate would the solution have any effect on the other hundred pounds?

A. Absolutely none.



(Testimony of Norman Watkins.)

Q. Would it remain dry?

A. Why, no, it would be wet, but absolutely none of it would go into solution; that is, at the constant temperature. If you raise the temperature, why, then more would go into solution.

Q. Therefore, one hundred pounds of water when not raised, would practically remain as before?

A. Yes.

Q. If a chemical reaction takes place, the mixture of the water and nitrate of soda, is there any change of temperature?

A. Yes, there is. The more soluble a substance is, why, the lower the temperature would be. That is, as you—the more active the dissolving is the greater, the lower the temperature; in fact, that is true to a degree that in dissolving, in dissolving some salts that are very soluble in water, if you place your glass beaker on a table and add water under it, the water would, the water between the beaker and the table would freeze. That is quite a marked lowering of temperature.

Q. With respect to degree of solubility, some reach high and some low? A. Oh, yes.

Q. Now, in what class would you say nitrate of soda would be?

A. Well, nitrate of soda is considered very soluble. There is no class of one, two, three or four in the solubility tables. They'll take up every salt, every chemical compound there is and generally they are arranged in alphabetical order with the degrees of solubility.

Q. So that a hundred pounds of water, fresh

(Testimony of Norman Watkins.)

water, and a hundred [3332—2501] pounds of nitrate, the temperature would be lower than 78°?

A. Well, as the action went on. It would later.

Q. If the amount of water were trifling, would that make any difference in the amount the temperature would go down?

A. Why, the temperature would not go down so rapidly because there would be a greater body for the temperature to change.

Q. But the chemical reaction and the lowering of the temperature would not be—I'll withdraw that. The lowering of the temperature would practically be immaterial if water were constantly added, more water? That is, the more water you had the less the temperature would decrease.

A. Well, that would be decreased because there would be a greater body, of course, to cool. The greater body would act, naturally slower than the smaller body.

Q. Now, if sulphate of potash and nitrate of soda were mixed in solutions could they be afterwards dried out and separated?

Mr. OLSON.—I object to the question as incompetent, irrelevant, and immaterial, there being no nitrate of soda in the cargo of the "Celtic Chief."

Q. Didn't I understand you to testify as to nitrate of soda?

A. In the case of the "Loch Garve" I stated the entire cargo was nitrate of soda.

Q. Then we'll take the other two—we'll take sulphate of potash and double manure salts. If those were mixed those could be afterwards separated

(Testimony of Norman Watkins.)

chemically, dried out and separated?

Mr. OLSON.—I object to the question on the ground it is incompetent, irrelevant, and immaterial, and furthermore on the ground that there is nothing shown that the different portions of the cargo of the “Celtic Chief” were in such juxtaposition that they could become mixed.

The COURT.—I will allow the question.

A. I understand they are mixed in salts, Mr. Warren?

Q. Yes.

A. Yes, they could be separated. [3333—2502]

Q. You could gather them up and dry them?

A. If you had a certain amount of the solution containing the two salts, why they could be separated. That is by evaporation. One of the salts would settle before the other; that is, depending on the degree of the solubility.

Q. Do you know anything about what the expense of that kind of a separation would be?

A. I couldn't say. I will say, though, from my knowledge of the facts that if the cargo was in that condition it would simply be abandoned and we would not do it, because the expense of a proposition of that kind would be out of the question.

Q. Now, about the “Celtic Chief,” do you know just how she was ashore, astern or bow first?

Mr. OLSON.—Object to the question on the ground it is not proper cross-examination.

The COURT.—Objection overruled.

A. The “Celtic Chief” was on shore bow first.

Q. And your judgment of the distance between the mainmast and the foremast is based on ob-

(Testimony of Norman Watkins.)

servation while on board? A. Exactly.

Q. Now, the quarantine shed at that time is the same one that it is now, cross the harbor?

A. Yes, sir.

Q. And the distance which you have given is from your office to the "Celtic Chief," one and a half to two miles, or is that from the "Celtic Chief"?

A. I think that was the question, from my office to the "Celtic Chief."

Q. And you made your first observation as to the position of the foremast of the ship being in line with the flag-pole on the morning of December 5?

A. Well, it was Monday morning whatever that was.

Q. I mean the 6th?

A. Monday forenoon, not early in the morning but after I came back from the ship.

Q. By the time it got so that the flag-pole was opposite the [3334—2503] mainmast you say that was Wednesday morning?

A. That was Wednesday morning.

Q. Did you take any observation after that?

A. I think not. I was very busy. In fact, I wouldn't have taken that observation Wednesday morning if it hadn't been for the discussion which apparently arose between the captain, Macaulay, and the captain of the "Arcona." I heard that argument and as soon as I got back to the office I went to look to satisfy myself.

Q. You said you made two observations, one on Wednesday after this discussion you heard between the pilot and the captain of the "Arcona"?

(Testimony of Norman Watkins.)

A. It was either the captain or one of the officers.

Q. Can you tell us more definitely respecting the distance—was there anything said in that conversation respecting the distance the ship might move?

A. I don't recollect. As I say, I didn't enter into the conversation at all. It was simply an argument. The German officer maintained that the vessel lost ground and Captain Macaulay maintained that she didn't.

Q. As far as you remember those positions of the ———, that is, the pilot thought she had not moved at all?

A. They both maintained that they both had their bearings. The German officers said that they had their marks and they had kept the run of things, and Captain Macaulay maintained that he had his marks and he'd kept the run of things.

Q. You don't know from that conversation what length of time was included in their conversation, what day they were discussing?

A. It was Tuesday to Wednesday.

Q. Tuesday to Wednesday?

A. Yes, because we were out there Tuesday morning and again Wednesday morning and the German officer he brought that matter up. He said, "You've lost ground since we were out here yesterday."  
[3335—2504]

Q. He spoke of yesterday?

A. Yes, that's when the argument arose. It was simply a friendly exchange of opinion, that was all. One maintained that she lost ground and the other maintained that she hadn't.



(Testimony of Norman Watkins.)

Q. Now, in the conversation you have told us about, between you and Captain Schroeder both going out and coming in from the vessel as to the willingness of the captain to take hold, can you remember anything more of that conversation than what you have told us?

A. Why, I can't. I do not recollect anything more definite than what I have stated.

Q. Was there any reference made to the lightering operations?

A. Not with me, but I heard the captain of the cruiser tell the captain that they ought to get busy with the lightering operations and the captain was, the captain of the "Celtic Chief," I recollect distinctly, said that they were looking any minute for the Miller lighters to return.

Q. That was on Tuesday morning?

A. That was on Tuesday.

Q. Was anything said by Captain Schroeder as to his desire that a certain amount of cargo be taken out or that all the cargo possible be taken out before he took hold?

A. I don't think that he did. I don't recollect or at least I didn't hear him tell the captain.

Q. I mean between yourself, the captain and yourself?

A. No, not about taking it, but the captain of the cruiser maintained right along that it was very necessary that the discharge of the cargo proceed as rapidly as possible.

Q. You heard nothing from him either to yourself or any conversation with Captain Henry as to his

(Testimony of Norman Watkins.)

desire that a certain amount of cargo or all possible cargo be taken out before he took hold?

A. No; the only thing I heard was the captain gave the advice that they should get the cargo 'out as rapidly as possible.

Q. Now, when you compared lightering operations at the "Celtic [3336—2505] Chief" by the Inter-Island Co. and its boats with operations that you have seen by Inter-Island boats at other island ports, I'll ask you have you any particular ports in mind.

A. Why, I have one very clear in my mind. It was the first trip I ever took in an Inter-Island steamer a matter of thirteen or fourteen years ago. I took a trip to Nawiliwili. Of course, it was not my first experience in observing the discharge of freight from these steamers and it was very rough and the thought that occurred to me at the time that the operation was rather dangerous because it was exceedingly rough.

Q. Where was this—in Nawiliwili Bay?

A. In Nawiliwili, yes. And since that time I've seen them discharge cargo at many of the island ports.

Q. And under conditions anything similar?

A. Conditions? I've seen cargo discharged under conditions similar and conditions that were worse and conditions that were better.

Q. Now, when you speak of difficulty, no more difficulty than these other places, how do you mean—in operating the boats or the slings or what?

A. Why, when a surf boat is alongside of a vessel and there is a very heavy swell, why, the crew in the

(Testimony of Norman Watkins.)

boat have got to look out that the boat is, at least they've got to keep their boat from being banged against the side of the vessel; they've also got to look out for the sling, that the sling doesn't strike them coming down and those are conditions that I call difficult. In rough water all hands have got to be on the alert that they don't get hurt themselves or that they don't hurt the cargo or that they don't hurt the boat.

Q. You saw the "Concord" and the "Kaimiloa" doing considerable surging?

A. Yes, they were doing considerable surging, but all the cargo, as I observed, was being handled by hand. [3337—2506]

Q. On those boats?

A. On those boats, so of course the difficulties of boats and slings and so forth didn't prevail.

Mr. WARREN.—That's all.

Cross-examination of NORMAN WATKINS on Behalf of Libellants Miller Salvage Co., Ltd.

Mr. WEAVER.—Q. What, if anything, was the angle of the "Celtic Chief" with the angle of your line when you were looking out along your ranges on Monday and Wednesday? Was it right angles or less?

A. Apparently it was at right angles. That's the way it looked. Of course, not knowing how far the masts ought to appear, of course, I couldn't say. Apparently you could see the three masts.

Q. You can judge more or less accurately.

A. I'd rather withdraw that the vessel was at right angles. I think that the vessel was more at an angle.

(Testimony of Norman Watkins.)

Q. How much more? A few degrees, five degrees, not as much as forty-five? A. I wouldn't say.

Q. Five or ten?

A. If I was going to venture a statement, I'd say perhaps from ten to fifteen degrees off the right angle.

Q. When the "Concord" and "Kaimiloa" were observed by you rising and falling, how high was that swell in feet?

A. It would only be a guess if I ventured an ascertainment, but they were doing considerable rising.

Q. And did you observe any strain upon their ropes?

A. Yes, a violent strain. I think while I was there one of the lines parted.

Q. More than one?

A. I think at the time I was there there was one.

Q. Did you see any damage done when that occurred, bumping either the "Kaimiloa" or "Concord" against the "Celtic Chief"?

A. No, there was no damage occurred to either vessel while I [3338—2507] was there.

Mr. WEAVER.—That's all.

Redirect Examination of N. WATKINS.

Mr. OLSON.—You were asked a question how long it would take to dissolve a hundred pounds of nitrate of soda in a hundred pounds of water at the temperature stated 78° or thereabouts. Have you ever made any practical test either incidentally or for the very purpose to see how long it takes to dissolve sulphate of potash?

Mr. WARREN.—Object to that as improper re-

(Testimony of Norman Watkins.)

direct, if the Court please.

I'd like to move to strike all testimony of this witness with respect to nitrate of soda upon the ground it is incompetent, irrelevant, and immaterial.

The COURT.—The motion is denied and I allow the question.

A. In answer to that I would say that I have made a great many analyses of both nitrate of soda and sulphate of potash, and the customary procedure is to weigh out a certain amount, in the case of nitrate of *said*, as a rule, ten drams or nitrate of soda and put it in three hundred centimeters of water and give it a shake and it's gone. In putting sulphate of potash into solution, it is necessary before you can get it into solution, it is necessary to boil for half an hour.

Q. Now, then, Mr. Watkins, will you state whether or not water is more active as a solvent at a high temperature, that is, I mean at a high state of heat, or at a low temperature? At which is it the more active as a solvent, at a high or a low temperature?

A. It is more active at a higher temperature.

Q. That is to say, if the water is boiling it is much more active [3339—2508] than if it is cold?

A. Much more active, but much more active in some cases than others. You take common salt and hot water, there is very little difference in the salt between hot and cold water in common salt but there is a vast difference in nitrate of soda.

Q. How about sulphate of potash?

A. Quite a little difference in sulphate of potash.

Mr. OLSON.—I think that's all.



(Testimony of Norman Watkins.)

Recross-examination of N. WATKINS.

Mr. WARREN.—I'll ask you, Mr. Watkins, how long would it take to dissolve sulphate of potash in water at 78°, 13 parts of sulphate of potash to one hundred parts of water.

A. I should say it would take at least an hour.

Q. And if the quantity of water were doubled, would that make any difference?

A. It ought to go into solution quicker.

Q. About how much quicker, half the time?

A. No, I couldn't. I wouldn't venture an assertion of the ratio.

Q. That would depend upon the size of the crystals?

A. That would have some bearing on it.

Mr. WARREN.—That's all.

Re-redirect Examination of N. WATKINS.

Mr. OLSON.—That's all. Just a moment. I have one point that I want to see whether I want to ask a question on.

Q. Assuming a vessel like the "Celtic Chief" full of or laden largely with sulphate of potash, if there were a leak admitting the salt water at its ordinary temperature that would bring a comparatively small quantity of water, would it not, in contact with a large quantity of sulphate of potash?

Mr. WARREN.—I object to the question on the ground it is improper *cross-examination*.

Mr. WEAVER.—I make the same objection.

Mr. OLSON.—That's all.

Recess. [3340—2509]

Mr. OLSON.—If the Court please, the testimony

that I have already offered completes the testimony which I wish to offer, with the exception of A. W. Keetch, an engineer, on the question of propellers.

The COURT.—I will grant the motion as to that part of Mr. Barrett's testimony, page 7, reading as follows: Beginning with the words "and broken her all up," and the words, "she would have listed in no time if there had not been a towboat holding on to her."

As to the point you made that this all should be stricken out because the later part shows that the answer is all based on the reporter by the commander and we don't know what that report is, I overrule the objection.

Mr. WARREN.—I now move to strike the answer of the witness Connemann to direct interrogatory number 38, upon the ground that he is not qualified by knowledge of the facts in the case to answer that question and the answer further doesn't show that he has such knowledge.

Mr. WEAVER.—The Miller Salvage Co. makes the same objection. The Miller Salvage Co. withdraws its objection.

The COURT.—I have ruled that the witness is qualified as an expert and also have overruled the motion, denied the motion.

The COURT.—I am going to deny the motion, that being #13-X cross-interrogatories propounded by Miller Salvage Co.

Mr. OLSON.—That's the deposition of Lieutenant Connemann.

The COURT.—I'll deny the motion as to that. Motion to strike answer to cross-interrogatory 19-X

(Testimony of John William Smithies.)

propounded by the Miller Salvage Co. in the deposition of Captain Connemann. [3341—2510]

Friday, February 16, 1912.

**[Testimony of John William Smithies, for Libelee.]**

Direct examination of JOHN WILLIAM SMITHIES, a witness called on behalf of libelee, and sworn.

Mr. OLSON.—Q. What is your full name?

A. John William Smithies.

Q. Smithies? A. Yes, sir.

Q. Where do you reside? A. In Honolulu.

Q. What was your business or occupation in March of 1906?

A. I was clerk for Jas. F. Morgan.

Q. And Mr. Morgan was then—

A. In the auctioneer business and commission.

Q. Who was Mr. Morgan's salesman at that time?

A. O. H. Stevens.

Q. Do you remember a transaction in that month, or in the Spring of 1906, involving the sale of a windlass which had been put into the hands of Mr. Morgan by Captain Wiesbarth and sold to Captain Miller? A. Yes, sir.

Q. Will you state—you are familiar with the transaction itself, the actual sale? A. Yes.

Q. What was the amount that that windlass was sold to Captain Miller for? A. About \$105.00.

Mr. OLSON.—That's all.

Cross-examination of JOHN WILLIAM SMITHIES on Behalf of Libellants Miller Salvage Co., Ltd.

Mr. WEAVER.—Q. Have you memorandum of

(Testimony of John William Smithies.)

that or independent memory of that figure?

A. Memory myself?

Q. Yes.      A. No, sir.

Q. Have you any memoranda of that \$125.00?

[3342—2511]

A. By looking up the books.

Q. Where did you get the figure?

A. I got it from Morgan's books.

Q. You know it yourself?      A. Yes.

Q. Do you know independently of the books?

A. No, sir, not independent of the books because that's 1906.

Q. When you say it sold for \$105.00 you depend upon looking in Mr. Morgan's books?      A. Yes.

Q. But you yourself do not know about it?

A. I think I remember a receipt given to Miller for \$105.00.

Q. Have you seen that?      A. What?

Q. Have you seen that signature, your receipt given to Miller for \$105.00.

A. I haven't seen the receipt; that's five years ago.

Q. Then the only means of information is the memorandum in Mr. Morgan's books?

A. Yes. By looking it over it refreshed my memory.

Q. Who kept the books?

A. Mr. King. G. W. R. King was the book-keeper; if I'm not mistaken you had an office there too.

Q. I had an office near by.

A. But you knew we were handling Wiesbarth's affairs.

(Testimony of John William Smithies.)

Q. I'm asking you how you know of that sale?

A. I simply looked up the books.

Q. Did you yourself make any entry of that \$105.00?

A. If I'm not mistaken, that's some years ago; King was keeping Mr. Morgan's books when he came down after he finished his work at four o'clock.

Q. Then you have no memorandum of your own?

A. I have no memorandum of my own.

Q. Did you see that entry? A. Yes.

Q. I thought you said Mr. King was the book-keeper?

A. I gave him a memorandum of the sales and he made the entries.

Q. You don't remember giving him that memorandum? A. I do. [3343—2512]

Q. Independent of any transaction or is it because it is in the general course of business?

A. In the general course of business. When he comes he asks me for the charges. I give it to me.

Mr. WEAVER.—Move to strike the testimony out as hearsay.

Mr. OLSON.—I offer to show by Mr. King who is here that the entry was made correctly in the manner that Mr. Smithies has testified.

The COURT.—I can't strike the evidence out, but I don't take it as established yet.

Mr. OLSON.—Where is Mr. Stevens at the present time? A. At the present time?

Q. Yes. A. Manila.

Q. He is not in Hawaii?

A. No, sir. Philippine Islands.

Q. You were the one who handed this information



(Testimony of George W. R. King.)

regularly to the bookkeeper? A. Yes, sir.

Q. And you knew the sale took place? A. Yes.

Mr. OLSON.—That's all for Mr. Smithies.

Mr. WARREN.—No questions.

**[Testimony of George W. R. King, for Libelee.]**

Direct examination of GEORGE W. R. KING, a witness called on behalf of libellee, and sworn.

Mr. OLSON.—Q. Mr. King, your full name, please? A. George W. R. King.

Q. And where do you reside?

A. Honolulu, Kaimuki.

Q. Do you know—that's on this island, is it not?

A. Beg pardon?

Q. Kaimuki is on this island, is it not? A. Yes.

Q. Do you know Mr. Jas. F. Morgan of Honolulu?

[3344—2513] A. I do.

Q. Will you state whether or not in 1906, in the early part of 1906, you were in any way connected with Mr. Morgan?

A. I was keeping Mr. Morgan's books at the time.

Q. Do you know Mr. Smithies, who was then employed by Mr. Morgan? A. I do.

Q. I'll hand you a book which I have in my hand. I'll hand you a book which has on the outside the following data: Journal, January 3, 1905 to April 10, 1906, and ask you if you recognize that book.

A. I do.

Q. I call your attention to page 364—no, I'll ask you first, what is that book?

A. That's Mr. Morgan's journal.

Q. And you recognize that as such? A. I do.

Q. Turn to page 364 of said book, having at the

(Testimony of George W. R. King.)

top of the page, the following words, March, 1906. Calling your attention to the first item under date of March 31, 1906, I'll ask you if you recognize that handwriting. A. Yes.

Q. In whose handwriting is that?

A. In my handwriting. This is the journal. They had what they called a blotter journal. I would call there for all entries from the blotter journal. I took items of this kind and entered them.

Q. Do you know whether or not Mr. Smithies made entries in that blotter journal?

A. Mr. Smithies did make entries.

Q. This might have been made by Mr. Smithies?

A. Might have been.

Q. He might have given you that item?

A. I found it in the book.

Q. Who made the entry in the book?

A. Mr. Morgan presumably and possibly Mr. Smithies.

Q. I'll ask you whether or not that blotter record is kept? A. They are kept.

Q. Can you produce it?

A. I could if I went down in the storehouse.

[3345—2514]

Q. I didn't think that they kept those books.

A. I think they were not destroyed.

Q. Mr. King, I'll ask you *if will* be good enough to go over Mr. Morgan's books and see if you can find that blotter journal. And I now ask, subject to its being stricken later, if that cannot be produced, that I be permitted to go on. Mr. King, is this entry here a correct entry made from the data that was

(Testimony of George W. R. King.)

given to you at the time? A. Undoubtedly.

Q. I'll ask now to be allowed to read this into the record. The entry being, is it not, Mr. King, as follows: March 31, 1906, Miller, Captain, Debtor, \$105.00, merchandise; kind, one windlass bought from windlass?

A. One windlass bought from Weisbarth.

Q. That's a correct entry?

A. That's a correct entry.

Mr. WEAVER.—Move that the offer be refused on that ground that it is not the best evidence.

Mr. OLSON.—I just want to ask one more question.

Q. You can find that book in Mr. Morgan's records if it is there. You know as much about it as anybody and can find it.

A. No, I do not. As I say, I was only there in the afternoons, and the disposition of those books were left in Mr. Smithies' hands, and as fast as they were finished up they were put in the warehouse.

Q. Kindly make a search yourself, and have a man in Mr. Morgan's office, his present man, Mr. Schwarzberg or Mr. Fleming, come up with you.

**. [Testimony of Alvin W. Keech, for Libelee.]**

Direct examination of ALVIN W. KEECH, a witness called on behalf of libellee, and sworn.

Mr. OLSON.—I'll admit, if the Court please, that the Inter-Island [3346—2515] Steam Navigation Co., in the course of the operations in connection with the "Celtic Chief" while on the reef outside the harbor of Honolulu, consumed extra fuel, fuel consumed because of the operations in connection with the "Celtic Chief," to the value of \$1,000.00.

(Testimony of Alvin W. Keech.)

Mr. WEAVER.—On behalf of the Miller Salvage Co. I make the same admission.

Mr. OLSON.—Will you state your full name, Mr. Keech?

A. My full name is A. W. Keech or Alvin W. Keech, is my full name.

Q. Where do you reside, Mr. Keech?

A. Honolulu.

Q. What is your profession?

A. I'm a general engineer.

Q. Will you state what training you have had?

Mr. WARREN.—I will admit, as far as I am concerned, that Mr. Keech is an expert in his line.

Mr. WEAVER.—I make the same admission.

Q. Mr. Keech, as a general engineer, have you ever made any special study of marine engineering?

A. That is where my training has been, along that line altogether, and I am licensed by the United States. I have a chief engineer's unlimited license.

Q. You know what is meant by actual or useful thrust in connection with the engine of a vessel transferring power by means of its propeller or propellers? A. Yes.

Q. I would like to have you explain to the Court what is meant by actual or useful thrust.

A. You want me to explain at length.

Q. Yes, explain so that the Court will understand what is meant by that term.

A. The power exerted within a vessel is called the indicated horse-power; that consists of a number [3347—2516] of factors, one of which is pressure and the other distance and another time. Those

(Testimony of Alvin W. Keech.)

make the indicated horse-power. Now, in transferring those, they are transferred, theoretically in the calculation to the propeller to overcome the resistance of the ship. There is friction, first the unloaded friction of the machinery that is present all the time; then there is the loaded friction; then there is the suction friction on the propeller and the inefficiency of the propeller.

Q. Assume that you had a vessel working by means of an engine transferring its power to a propeller which is working in the water and the vessel is tied up to an object lying quiet, we'll say on the wharf, how will you ascertain, or what will be the result of your experiment or test in ascertaining what the actual power of that engine is?

A. Well, there is only one way to determine that, and that is to put a —— If you have a vessel hitched to a post on the wharf, you have a —— on the rope, and that will tell you the number of pounds there which is the ordinary or actual—

Q. That is to say, it is an instrument which forms a link in the cable from the vessel?

A. I read off the pressure.

Q. Do you mean by that, Mr. Keech, that the amount indicated by the —— is equal to the weight of the object which is being pulled on?

A. It wouldn't drag it, but if you add a fractional more pull it would force the weight off the wharf.

Q. Then, if your —— registered five tons, that would mean, would it not, that just a trifle more power than is necessary to show five tons would pull a five-ton object off the wharf?



(Testimony of Alvin W. Keech.)

A. It would raise it slowly.

Q. Now, then, Mr. Keech, it has been testified in this case by Engineer Lycett of the steamer "Helene," that while he was on duty on the "Helene," while she was pulling on the "Celtic Chief," the following figures were correct representing the utmost that the vessel was doing at the time that he was on duty: Indicated [3348—2517] horse-power, 470 at the utmost; pitch, 9 feet, 6; revolutions, 117 at the utmost, tied up, per minute; revolutions at the utmost, running free, 126 per minute; gauge pressure, 160 pounds; and diameter of the propeller, 8 foot, 3, being one propeller. Mr. Lycett did not testify as to the diameter of the propeller, but I understand now that counsel for the Inter-Island Steam Navigation Co. admits that the diameter of the propeller is 8 foot, 3, of the "Helene."

Mr. WARREN.—That has been given me by the chief engineer of the vessel.

Mr. OLSON.—Then it is admitted by counsel that the diameter of the propeller is 8 foot, 3.

Mr. WEAVER.—I admit that.

Mr. OLSON.—And you will admit that, Mr. Warren?

Mr. WARREN.—Yes.

Q. If you will state, Mr. Keech, what, according to those figures, is the actual thrust in pounds?

A. I have either to do it here or refer to my notebook. I have done the problem. That's the "Helene"?

Mr. OLSON.—That's the "Helene."

A. What is the pitch of that propeller—9 foot, 6?

(Testimony of Alvin W. Keech.)

Q. Nine foot, six.

A. Running free, that indicated horse-power is stated to me now as 470?

Q. Yes.

A. Well, there is no statement made whether that is towing, pulling, or running free. I suppose that's running free.

Q. The indicated horse-power of the vessel, when given, is running free.

A. I assume running free, 470 is the horse-power running free with the revolutions 126; I've taken the maximum because I want to say that vessels are at such a disadvantage that I'm inclined to be lenient with them. There is such a disadvantage that you can't give them any too much. 470 and 126 revolutions you would have three tons and twenty-six [3349—2518] one-hundredths.

Q. And 26/100? A. 26/100.

Q. And the maximum thrust tied, or towing with that horse-power would fall away due to the revolutions being 117? A. Yes.

Q. 436 would be the horse-power and the calculation, then, would bring out, using 436 horse-power and 117 revolutions, would give you three ton, point naught eleven short tons.

That's useful thrust, three point eleven?

A. That's useful thrust.

[**Testimony of G. W. R. King, for Libelee.**]

G. W. R. KING resumes stand.

Mr. OLSON.—Q. Mr. King, have you found the blotter copy to which you have referred?

A. I have.

(Testimony of George W. R. King.)

Q. I now hand you a book and ask you if that is the book to which you refer.

A. That's the blotter of that date.

Q. Referring to page 178 of said blotter copy, the item at the bottom of the page under March 31, 1906, Captain Miller, debtor merchandise account, windlass from Captain Wiesbarth, 105.00, is that the item to which you referred? A. That is the item.

Q. In whose handwriting? A. Mr. Morgan's.

Q. Where is Mr. Morgan at the present time?

A. In San Francisco, I believe.

Q. He's not in the Territory of Hawaii?

A. Not in the Territory.

Q. Is that a correct entry? Is this a book which is used in the regular course of Mr. Morgan's business? A. It is a rough entry during the day.

Q. And the bookkeeper enters it up at night?

A. This E is made showing that I made the proper entry in [3350—2519] the proper book.

Mr. OLSON.—I ask that be allowed in evidence, if the Court please. It is an entry made in the regular course of business.

Mr. WEAVER.—I object to that as hearsay evidence.

I withdraw my objection to the item.

Mr. OLSON.—The item reads as follows: This is correct, is it not, Mr. King. March 31, 1906, Captain Miller, debtor merchandise account, windlass bought from Wiesbard, \$105.00?

A. That is correct.

Mr. OLSON.—That is all. Now, if you will come, Mr. Keech.

**[Testimony of A. W. Keech, for Libelee.]**

Continuation of Examination of A. W. KEECH.

The WITNESS.—I want to explain that this actual thrust, as I said, was derived from subtracting or using a percentage of the indicated thrust, and that is used by authority. Experiments and practice has established it and we refer to Seeton's Manual and Haughton's Handbook, which I have here. Those have been admitted and used all the time as the standard works on this force and deduction. I have used the smallest deduction, less favorable to the vessel.

Q. Now, what is that percentage?

A. 50%, that is given by Kent. I haven't mentioned Kent who is the most conservative of the three and is not a good authority.

Q. Will you kindly refer to Seeton and Haughton?

A. I want to say that the proper deduction, the one mostly used is—

Q. What would the percentage be if you took the one ordinarily used, not the most favorable?

A. It would be considerably less than that I mentioned here this morning.

Q. Than three tons?

A. Than the figures that I'm giving.

Q. That is than 505? A. 50%. [3351—2520]

Q. But it would be reduced?

A. In the proportion that I used, 37 to 40. Of course it varies according to the quality of the machinery. I should say 45 is, would be correct.

Q. Kindly refer to Seeton and show your authority for that.

(Testimony of A. W. Keech.)

(Witness refers to book.)

A. Shall I read it?

Q. Yes, read from Mr. Seeton.

A. Yes, this is Seeton's Manual of Marine Engineering, A. E. Seeton.

Mr. WARREN.—What page is that, please?

The WITNESS.—That is 292. It shows there they have very carefully investigated,—that only 37 to 40 per cent of the whole power is ordinarily employed and the fraction is equivalent to from  $\frac{1}{8}$  to  $\frac{1}{6}$  of the gross load on the engine when working at its maximum speed and power.

Q. Now, will you refer to Houghton and show the same thing?

A. Here's an example. This is an example worked out.

Mr. WARREN.—What page is that, please?

A. Page 347. On page 349 you have the case of a steamship. It is found that only about 38% of the indicated horse-power is effectively applied to the turning force of a steam propeller in propelling the ship. That's on another page in another example.

Q. Now, then, Mr. Keech, I'll ask you whether or not you have figured—I'll assume this figuring, then, at the rate of 50% as being the actual or useful thrust, that giving you 3.11 tons when she is running tied up? A. Yes.

Q. Do you mean by that, then, that the power is equal to the weight of a block 3.11 tons at the other end of the rope being lifted?

A. It just balances.

Q. So it would require a little more power in order to lift that?



(Testimony of A. W. Keech.)

A. Yes, you have thrust balancing weight.  
[3352—2521]

Q. There would be—state whether or not with a vessel like the "Helene" pulling on the "Celtic Chief" which is aground and not yet floated, exerting the power of these figures that I have given you, would it be calculated as tied up or running free?

A. Tied up.

Q. That's what you mean by tied up?

A. Yes, the "Celtic Chief" is a fixed object, an object ashore, and the vessel is pulling on her she would be like a post on the wharf.

Q. And the power exerted is transferred into what? Dynamic force or static force?

A. Static.

Q. It only become dynamic when the object becomes free?

A. Then it becomes thrust into speed.

Q. Is there any difference between the propellers of a vessel which is used for towing purposes and a vessel which uses her propellers particularly for the purpose of carrying the vessel itself through the water, like a steamship? Is there any difference between the propeller of a tug boat and a steam ship?

A. Every vessel that's built is carefully considered with that in view and even the ship is carefully considered, and—that is, the propeller is considered according to the work she has to do and the man that can get nearest to it is the cleverest marine engineer.

Q. Now, does the propeller of a tugboat differ from the propeller of an ocean going steamer?

A. Well, they generally have less pitch so they are

(Testimony of A. W. Keech.)

not hampered when they're tied up by that slowing down of the engine; they get a shorter —— which enables them to have a greater leverage.

Q. Now, how does the diameter compare or is there any difference in the diameter?

A. The diameter is always considered in regard to the vessel; and one thing is the cross-section [3353—2522] of the vessel, midship section has something with it, but there're so many things that enter into it that regulate the diameter of the screw, but the diameter has a good deal to do with the efficiency of the screw.

Q. That is of these particular vessels?

A. Any vessel, any particular vessel. And I wish to say that if her condition changes as to towing or running free or any change of her method of her towing, the diameter has a definite influence on it within limits.

Q. I'll ask you, Mr. Keech, if you have figured the useful thrust of the pulling according to the following figures: Indicated horse-power, 500; pitch, 9-foot, 5; revolutions, 137, running free; under the pressure, 160?

A. No, I haven't that horse-power. I don't have that.

Q. You do not have that?

A. What is the horse-power?

Q. Could you figure that?

A. Well, it would take quite awhile.

Q. Never mind now, then. Coming, then, to the "Mikahala," assuming the "Mikahala" pulling on the "Celtic Chief" under the same conditions that

(Testimony of A. W. Keech.)

I have described with reference to the "Helene," with a horse-power of 404, pitch 13 feet, revolutions running free 87 and tied up exerting the greatest power that she was exerting upon the "Celtic Chief" at the time according to Christiansen, the engineer of the "Mikahala," 70, and the diameter 9 feet, 6, 9 feet, 8; diameter of the propeller 9 feet, 8 and the pressure 70 pounds?

A. I have two pages worked out here from 404 indicated horse-power, 87 revolutions, 13 pitch; then I have worked back from there to a horse-power 305 and have worked it out at 65 revolutions and the "Mikahala" tied is two pounds, point 977.

Q. 2.977 tons?

A. And free, 2.946. She has less thrust running free, she pulls better, has less thrust running free than when hooked on according to that which is sometimes the case. [3354—2523]

Q. According, then, to the figures that you have given to you, Mr. Keech, the "Mikahala," the "Mikahala's" power tied up would be, that is, it would just balance a block attached to the end of a rope running a fraction over a weight of 2.977 tons, and running free a trifle less.

A. I want to say in practice, if you were to get down there and do that it wouldn't do it.

Q. You figured that on 505?

A. I doubt whether she would do it.

Q. Now, I'll ask you, Mr. Keech, with reference to the "Likelike" operating under similar conditions according to Engineer Strolhin and Faneuf, also engineer of the "Likelike," the figures being as fol-

(Testimony of A. W. Keech.)

lows: Indicated horse-power, 340; pitch, 8 feet and a quarter and a half inch.

A. 8.25 gives 3 inches, 8 feet, 3 inches

Q. 8 feet, 3 inches; revolutions, running free, the maximum, 138x and tied up, using the power that she was using that night on the "Celtic Chief," 100 per minute. A. Yes, I have that.

Q. And her diameter, the diameter of the propeller, 8 feet, 3, and the gauge pressure, 150 pounds?

A. The gauge pressure doesn't matter as the indicated horse-power has been stated and that includes the gauge pressure.

Q. Now, then, will you state what is, first, the useful thrust tied up and then, what it is running free?

A. Running free I have figured that and found it to be two tons, point 463.

Q. That's running free? A. Running free.

Q. Then tied up?

A. Tied up, two tons, point 56; short tons.

Q. So the "Likelike" could operate at better advantage tied up?

A. Well, she seemed to. They do sometimes. You see, running [3355—2524] free they produce a slower effect in speed until she loses thrust.

Q. You made these calculations in the same way that you have done the other, with 50% deduction?

A. Yes, they are all 50% deduction.

Q. Taking the "Mauna Kea," the "Mauna Kea" having an indicated horse-power of 2400; pitch, 15 feet, six inches; revolutions, 105, that's running free. Can you state from those figures what her thrust is, useful thrust running free and tied up?

(Testimony of A. W. Keech.)

A. I can only give it as it's given here. Running free—

Q. Oh, I'll ask you whether it will be true that her towing power will be equal to her running free? Could the thrust given her, that I'll give you again be taken as true unless you put a dynameter on?

A. The thrusts I'm giving you here are as near as you can get them, and running free or tied up, it will be close to it. The "Mauna Kea" has an actual thrust of 12 tons, point 165.

Q. And that is figured on a 50% deduction; 50% basis? A. 50% basis.

Q. But it would be correspondingly less if you figure it as stated by Haughton or Seeton. I'll ask you about another thing Mr. Keech. You were formerly, were you not, in the stevedore business?

A. I was part owner of what is now the McCabe, Hamilton & Renney Co.

Q. As such were you famaliar with donkey-engines in use here in Honolulu?

A. I owned them, rented them and sold them.

Q. Do you know whether or not any of those donkey-engines that you had were sold?

A. I think some of them.

Q. You have seen donkey-engines from time to time during the last two or three years?

A. Yes, I know they're here as well as I know there is money here.

Q. I'll ask you whether or not you know whether or not McCabe, [3356—2525] Hamilton & Reney have donkey-engines having a horse-power of forty-five or over?



(Testimony of A. W. Keech.)

A. I should say there are, at least the double ones.

Q. McCabe, Hamilton, & Renney have donkey-engines of that kind for hire?

Mr. WARREN.—I would like to interpose an objection on the ground it is incompetent, irrelevant, and immaterial.

The COURT.—I overrule the objection.

Mr. OLSON.—Answer the question.

A. The question was?

Q. Whether there were such, whether such engines could be hired in Honolulu? A. Yes.

Q. I want to know, Mr. Keech, if you know that McCabe, Hamilton & Reney have engines now which they had then, of that character?

A. Oh, yes, I know that.

Q. Do you know of any other concern in town—I'll ask you this Mr. Keech, when did you sell out to McCabe, Hamilton, & Reney?

A. That was back, I suppose more than twelve years ago.

Q. And I will ask you whether or not the engines which you sold out to McCabe, Hamilton & Renney included any engines of that power or more?

A. Yes.

Q. Now, I'll ask you, Mr. Keech, whether you know of your own knowledge whether or not during the *lat*, we'll say in December, 1909, there were besides the engines of McCabe, Hamilton and Renney, other engines available in Honolulu for hire of forty-five horse-power or more?

Mr. WARREN.—I object to that question. This question assumes something that has not been testified to.

(Testimony of A. W. Keech.)

Mr. OLSON.—I'll say I'm excluding McCabe, Hamilton & Renney, and I'm asking Mr. Keech now if there were any other engines.

A. I know, but probably not definite enough. I don't have the size of them. [3357—2526]

Q. I'll ask you if there were engines in Honolulu at that time of that power or more which were available.

A. To the best of my knowledge and belief there have been engines of that kind ever since, it would have to be, the work couldn't proceed without them.

Mr. OLSON.—I think that's all.

Cross-examination of A. W. KEECH on Behalf of  
Libellants Inter-Island Steam Navigation Co.  
and Matson Navigation Co.

Mr. WARREN.—Q. You can't say, Mr. Keech, and be sure about it, that in December, 1909, McCabe, Hamilton, & Renney did, as a matter of fact, have engines of this power and under which could have been had at that time?

A. I couldn't definitely go into detail about the question. Of course, that's one of those things that I couldn't, I don't know, that anyone outside of the management of the concern could say definitely.

Q. And your personal acquaintance with the affairs and the stock of McCabe, Hamilton & Renney terminated, you say, about twelve years ago?

A. Somewhere along there.

Q. I'll ask you to the best—can you recall any particular place or firm where such an engine, in your judgment, could really have been obtained in December, 1909?

(Testimony of A. W. Keech.)

A. Well, I couldn't say particularly that there is any place, but I—no, not particularly. I couldn't go and put my hand on one, but I positively know that there were but not definitely where they were located.

Mr. OLSON.—Answer the question that Mr. Warren asked—what particular firm.

A. Including McCabe, Hamilton & Renney?

Q. Yes. A. Well, they had them.

Q. You don't know, as you have said, as a matter of fact, that they actually had those engines on hand?

A. Oh, yes, they had them because I think I saw them at that time. [3358—2527]

Mr. OLSON.—December, 1909?

A. I saw them working here on the deck.

Q. That is on different works out in the harbor?

A. Yes, all around here I saw them work. If it was longer than that, I've been away, but I was around here then and I saw them working.

Q. That is in December, 1909? A. Yes.

Q. Those that you saw were actually engaged?

A. Yes, they were engaged on the waterfront. Of course, the work couldn't proceed without them.

Q. Now, referring to the matter of the propellers and useful thrust, will you state the formula which is used for calculating the indicated thrust?

A. The indicated thrust? After finding the horse-power, indicated horse-power which is in pounds, the indicated thrust is the pressure on the thrust multiplied by the speed, which is pitch and revolutions divided into pounds of the indicated horse-power, gives you the indicated thrust.

(Testimony of A. W. Keech.)

Q. So that you would write that formula this way, indicated horse-power times 33,000 pounds to be divided by pitch times revolutions; that gives you thrust in pounds which answer you reduce by this 50% to eliminate the useful thrust, indicated thrust and useful thrust; so that that formula applies to any state of figures which give those, indicated horse-power, pitch and revolutions.

A. It is the formula generally used.

Q. That is the regular formula?

A. Regular formula.

Q. In speaking of a vessel running free, that means going at her full speed under normal conditions; that is, theoretically the conditions are all perfect; there are no factors interfering with any one or more; theoretically, you have a vessel going full speed in still water, and all these different factors unhampered by the things that actually do hamper?

A. Running free.

Q. When you are given in a formula a vessel is making so many [3359—2528] revolutions, if that happens to be her number of revolutions at full speed only, your calculation is based on her running full speed and free?

A. I have assumed that this is at full speed, running free because I know, I was superintendent, the "Mikahala" was under my supervision for a long while as a superintending engineer and I know that 404 horse-power is the horse-power given by the indicator at full speed.

Q. Now, you tell us, you have, to a certain extent,—what is meant by suction friction?

(Testimony of A. W. Keech.)

A. Well, there are two suction frictions in any vessel. Dragging through the water is suction friction which is between the water, and the suction *which due* to involuntary force and the pressure on the side and several other things, but the suction friction that I referred to was the suction friction on the plate, on the surface of the plate, which is considerable. There is a note here giving it as two and one-half pounds to the square foot in very good surface.

Q. Then this matter of friction depends upon the condition of the hull, whether it is clean or not?

A. Yes. The suction friction of the hull depends upon her depth or length, but the suction friction of the hull has nothing to do with the suction friction of the propeller.

Q. In moving through the water, supposing your vessel is running free, is there a certain amount of resistance by the force created?

A. That is one of the factors that they try to eliminate.

Q. That is something which would not exist if the vessel were pulling tied up?

A. That still exists; the tendency isn't so much but the water passes by the vessel. She has the same suction friction; that is, a smaller suction friction, although it is different in quantity, but the effect is the same. The stream running aft goes through the same performance as it would if the vessel were running free. [3360—2529]

Q. Now, taking these calculations that you've made. The theory of them is that you are in smooth water and pulling on something taut? A. Yes.



(Testimony of A. W. Keech.)

Q. Is there any difference in a vessel operating in still water under those conditions and operating in an open sea where the water is rough and there is a swell?

A. There is a difference, of course, because the conditions are different. If there is a rough sea, she has all to do to maintain herself from going astern; she may use up all her power keeping in position.

Q. When she's operating against the swell, is the tendency of the swell to throw her back?

A. Yes, everything, any disturbance in the direction.

Q. And when the swell passes if she is thrown back and goes forward is there any difference in the strain she is putting on that line? A. Yes.

Q. At that time?

A. There is quite a strain heaving on the line. It is not a useful strain; it's a line-breaking strain, and not a pulling strain on the vessel. If you could have that swell from allowing that force to be exerted then it would help the line, but the swell throwing the vessel rapidly ahead is a line-breaking strain, but not an effective strain, although I admit that it does sometimes help a little, not much. The tendency is more to break lines than it is to have the effect.

Q. Don't you know, as a matter of practice, that it is often by jerking on a line the only way to start a vessel?

Mr. OLSON.—I object to that, if the Court please, on the ground that there is nothing in the evidence assuming anything of the sort.

The COURT.—Objection overruled.

Q. A jerk of that sort is often best to accomplish

(Testimony of A. W. Keech.)

exactly what they are after, making a start?

A. It is often tried, but I don't know how often it has any [3361—2530] effect. It's tried because it is always tried, but where the mass inshore is small and the force outside great, then the chances of moving the mass inshore are greater, but where the mass inshore is big and the force outside small, then the chances of moving it with a jerk is not so great. It might be, I won't say it mightn't be, but the chances of moving a big mass with a vessel afloat, the small vessel afloat, wouldn't be so many.

Q. You personally haven't had experience with doing that?

A. Yes, I've had experience. I've not had command, but I was present, I was interested in cases.

Q. This was tried? A. Oh, yes.

Q. When that is tried and the vessel comes forward making a jerk showing a greater power, about what is the increase of power that is put on?

A. That is a thing that I couldn't answer and I think you couldn't get any one here to answer. I'd have to have instruments in the line; you'd have to make statements as to conditions, and I would have to make calculations from them.

Q. If it's full speed, it would be something like the weight of the vessel?

A. The vessel doesn't *weight* anything in the water.

Q. I mean the tonnage of the vessel.

A. The vessel and everything on her has no weight. It is mass and the boat is mass.

Q. So the force of that is also brought against the fixed object?

(Testimony of A. W. Keech.)

A. It's brought into the line. I don't want to tell you how much of it goes to the fixed object. There may be some of it go there, but it is exerted through the elasticity of the line without having any effect pulling unless the fixed object is small in comparison with the pulling object. There is no effect. I think it would have an inconsiderable effect on the inward side when the mass ashore is not too big.

Q. That is, assuming the pulling vessel to be small attached to [3362—2531] a hawser. Now, suppose the pulling vessel is itself secured by anchors out forward so that a swell does not appreciably drive it back, what difference then?

A. Then you negative the effect of the power and she is simply exerting her force, the force of her propeller.

Q. But if you're heaving on the anchor?

A. Heaving? That's not in my line. I don't know that.

Q. If you heave on the anchor?

A. Adds that much more force.

Q. If you are not heaving on the anchor, but the anchor line is simply taut, you simply stop?

A. You keep the vessel from going back; you keep the vessel steady and simply the condition so that there is no movement of the vessel and the propeller is exerting its thrust as if it were in still water.

Q. Does speed have anything to do with it? Does speed have anything to do with your calculations as to effective thrust with a vessel pulling at sea, say?

A. What speed?

Q. Speed. When you treat speed as a factor that means, of course, revolutions?

(Testimony of A. W. Keech.)

A. Well, you can have speed; the vessel running free is her speed; that is, her motion through the water is her speed. If she's tied up, the rate at which the water is moving by her sides due to her revolutions, that is her speed, too; that is, the vessel has no speed, but the water has a speed which gives the towing effect or the pulling effect.

Q. Well, thrust varies with the indicated horse-power?

A. Yes, of course, it has to, because it's one of the factors, it's one of the factors that balances outside force inside. When the indicated horse-power varies, there is thrust. When indicated horse-power ceases, thrust ceases.

Q. What about speed compared with indicated horse-power?

A. Indicated horse-power? You must have speed to have indicated [3363—2532] horse-power. You must have motion. You must have speed, either the speed of the vessel going through the water or the speed going astern.

Q. I'd like to have you explain this to me, then: Thrust varies with the indicated horse-power and conversely with the speed, therefore, but the thrust may rise considerably above the mean abnormal if from any cause the speed is reduced without a corresponding decrease in the power.

A. Yes, I'll explain that. You see, when I diminish horse-power that very effect brings the thrust up, brings it up to equal the horse-power running free. When I diminish the horse-power here from 400 and something to 300 and something, that very element brings the thrust up so it, at the diminished

(Testimony of A. W. Keech.)

horse-power equals the thrust at the higher horse-power.

Q. So that in towing there is an increase in the thrust?

A. No. Well, there is an increase in the thrust, of course, but not an increase over the thrust running free; not any appreciable increase of the thrust running free; but generally the way the propellers are affected here, the revolutions diminish horse-power, and it comes back again.

Q. So the difference in your calculation between running free and taut is covered by this?

A. That is, it always comes out that they're somewhere near alike. You'd have a horse-power pull down, the engine pulls down, but the thrust comes up through this peculiarity that you're mentioning. That is true.

Q. I understood you to say that when you had given the three factors, indicated horse-power and pitch and revolutions, you don't need to consider gauge pressure, because that is covered?

A. That is covered in the indicated horse-power. That's one of the factors in finding the indicated horse-power; that simplifies these calculations. If I hadn't had that I would have had [3364—2533] to go through, occupied more time.

Mr. WARREN.—I think that's all.

Cross-examination of A. W. KEECH on Behalf of  
Miller Salvage Co.

Mr. WEAVER.—Q. Suppose the "Mikahala," the engine of the "Mikahala," were on a fixed place and exerting this power that you mention, would it have



(Testimony of A. W. Keech.)

a greater or less pulling power than you have given?

A. No, it wouldn't. If you've all the elements there that were given me, any position of the engine would be in that I know of wouldn't affect it.

Q. The element that I wish to call your attention to would be the power exerted on an engine on a fixed post like the rapid transit line and a vessel then exerting the power, would that make any difference in its pulling power?

A. It would be a radical change then, and you would come to an entirely different proposition.

Q. Would it be greater or less?

A. You could go to, you could exert any power possible.

Q. Then it would be greater and considerably greater?

A. If you were to use the "Mikahala's" engine as a donkey-engine.

Q. You have taken into consideration the fact that it is a power exerted on a floating vessel and in the water?

A. Yes, that is the only thing in question.

Q. If it were possible to get a foundation out there for these engines and use an engine out there and then exert the power—

A. Then the smallest engine, a one-horse engine if rigged proper with tackle would exert a power greater than all the steamships in Honolulu.

Redirect of A. W. KEECH.

Mr. OLSON.—Q. Then, Mr. Keech, following up Mr. Weaver's line of examination, [3365—2534] assuming that any one of these vessels had been

(Testimony of A. W. Keech.)

backed up against a fixed object, say that the propeller had backed up against a fixed post or wall, say, it couldn't turn; that is, there would be a very vast difference, would there not?

A. The engine would become useless as a marine engine, and you'd have *and you'd have* to rig gypsy-heads on it.

Q. If instead of force being transferred to the propeller, the propeller is made fixed, have it transferred to a gypsy-head, it would exert a greater force?

A. It would be indefinite, according to the rig you put on.

Q. According to the rigging?

A. According to the rigging, the block, the tackle. The "Mikahala" engine or any other engine couldn't pull on any more than—

Q. Depending on the tackles?

A. Depending on the tackles, only the bigger engine would get through sooner, but the smaller engine, they would all pull up at the same point.

Q. What would be the result if one man with ordinary man power were to pull on a cable transferred to a vessel ashore like the "Celtic Chief" for a long enough period of time; that is, as long a period of time as to create a strain.

A. There would only be a stated strain on the cable *do* to the man's power.

Q. And that is depending upon what? How far does that force extend?

A. It extends clean through the vessel, every animalcule of matter through the vessel is affected by it.

(Testimony of A. W. Keech.)

Q. You referred to the mass or size of the vessel ashore as having a bearing upon the effectiveness—you know the “Mauna Kea,” do you not, and the “Likelike,” and all these other vessels?

A. Yes, very well.

Q. What would you say about the force of the swell exerted upon a vessel of a tonnage of about 1700 tons and having a cargo in [3366—2535] her of about about 2500 tons, with reference to the effectiveness of the swell? Would that be such a large one or a small one so as to become classified among the large or small? A. That is, a vessel ashore?

Q. Having cargo of about 2500 tons.

A. That's all relative to force; that's coming to a—

Q. I'm not asking you to state exactly. I'm asking you whether you'd regard that as a large mass rather than a small mass.

A. It all depends upon what mass.

Q. I'm referring to the “Mauna Kea,” the “Helene,” and the “Likelike.”

A. There is a big difference in their mass. The “Mauna Kea,” with the swell, would throw considerable strain somewheres in between herself and that vessel ashore, but when we come to analyze that, if the swell was not high—

Q. I'm not asking you to give exact figures. She would come around if the swell were any—I'm asking you if any of those vessels could take a vessel ashore on the reef of the size that I've mentioned and the cargo that I've mentioned with the swell that you know prevailed or had prevailed ordinarily here, would that object be large enough so the swell would be material?

(Testimony of A. W. Keech.)

A. Well, the "Mauna Kea" might have some effect.

Q. You stated in your examination in your testimony in response to Mr. Warren's examination that a large mass ashore and the vessel outside towing being affected by the swell; the swell would not affect the vessel ashore very materially, and you used the terms large or small mass, depending upon the size of the vessel ashore. I'm asking you, assuming the ordinary swell that prevails out here under ordinary conditions, and assume ordinary vessels like the "Helene" or "Likelike" and the "Intrepid," do you know it? A. Yes.

Q. Assume vessels of that kind pulling on to the "Celtic Chief," [3367—2536] if she had, the mass of water has such an advantage, the influence of the swell would be comparatively small?

A. I think in the case of the "Mauna Kea" the swell would be material, some material assistance.

Q. But not the others?

A. No, the others are rather small. If the vessel was aground inshore and I was depending upon those swells and those vessels to pull that off—they are supposed to be loaded or empty.

Q. Assuming that they are loaded?

A. Well, it wouldn't amount to anything in my estimation. That is, I wouldn't like to depend on it to help me out.

Recross-examination of A. W. KEECH on Behalf of Libellants Inter-Island Steam Navigation Co. and Matson Navigation Co.

Mr. WARREN.—Q. Referring, now, to the "Celtic Chief" ashore, that would depend a great deal

(Testimony of A. W. Keech.)

how she is loaded, how far aground she is and the water around it?

A. I was presuming that she was high and dry.

Q. So that if she were not high and dry but had been in the water say three or four feet—

A. That's something else.

Q. That would necessarily have made a difference?

A. Every foot of water makes a difference.

Q. You say the effect of the swell in assisting the "Mauna Kea" would then be all the greater?

Mr. WEAVER.—I object to the question on the ground there is nothing in the testimony to show there is anything of the sort.

Q. It would make a material difference in the result? A. What's that?

Q. If she was afloat.

A. If she was altogether afloat?

Q. So that if she's ———, a swell might possibly raise her almost to the point where she'd float, then the swell would be of material assistance, would it not? [3368—2537]

A. It would be, but the vessel is generally throwing her inshore under those conditions; the swell doesn't affect her as much as it does the vessel towing.

Q. Does it make any difference?

A. A vessel like that aground has to be shallow to sustain a great swell.

Q. Still it would be a material assistance?

A. I wouldn't say it would be material. I wouldn't like to call it material.



(Testimony of A. W. Keech.)

Q. You don't think so?

A. I'm that liberal; I'm not here to hide anything or to find anything but just what is the fact in the case and I wouldn't like to admit that in a matter of that sort.

Q. I'd prefer your judgment to that of an expert navigator.      A. I don't know.

Mr. WARREN.—That's all.

Mr. OLSON.—No further questions. I've closed with my case.

Examination of A. W. KEECH by the Court.

The COURT.—Q. Mr. Keech, will you explain again just what this 12.165 tons means?

A. It's the resistance of her propeller. That is a way to test the pull that she exerted on the line, on the tow.

Q. Now, I want to know what that power would be applied to, some object ashore for instance.

A. The same thing.

Mr. OLSON.—So, as I understand it, if there were actually 12 tons weight it would then require over 12 tons to bring it off.

Mr. WARREN.—I desire to offer in evidence, your Honor, according to promise heretofore made, a certified copy of contract for steamboat mail service between the United States and Inter-Island Steam Navigation Co., Ltd., over route #80,961, which I [3369—2538] will add is described in the contract as the route between Honolulu and Hilo and way ports, dated March 20, 1906, for a term ending June 30, 1910, which has been certified to as being true

by the chief clerk of the second assistant postmaster general, there appearing on page 3 of this document by the typewritten signature of W. S. Schallenberger, second assistant postmaster-general, the impress of a seal, purporting to be the seal of the post-office department of the United States of America and which reads, postoffice department, United States of America, and in the center the figure of a man on horseback.

Mr. OLSON.—I object to the offer on the ground that it is not an authenticated copy; further, on the ground that it is not the best evidence; further, on the ground that the certificate referred to by counsel is simply a statement reading as follows: True copy sent to second assistant p. m. general, it not being under seal and not purporting to be under seal, the seal referred to by counsel apparently being a part of the copy and being placed there to indicate the position of the seal to the original document, placed thereon by the officer of the Government signing the document on behalf of the document; and, furthermore, that the seal is found to entirely differ from the one on which the certificate appears.

Mr. WARREN.—Your Honor would make a ruling declining to receive it in evidence but marking it for identification?

The COURT.—Yes.

(Document received in evidence and marked for the purposes of identification.) [3370—2539]

I hereby certify that the foregoing is a full, true,

3344 *The British Ship "Celtic Chief" et al. vs.*

and correct transcript of my shorthand notes in the above-entitled cause.

Honolulu, T. H., July 30, 1912.

S. SOARES,

Official Reporter. [3371]

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**[Libelee's Exhibit "A."]**

Capt. Hendry,  
"Celtic Chief."

8/12/09.

Dear Sir:—

I desire you to let go from your present position as I want to make a good berth for the Man of War I do not wish you to cast off altogether and I will take your rope from some other part of ship trusting you will oblige me

Yours truly

(Sgd.) Capt. JOHN HENRY.

P. S.—Please let go as soon as you see the Man of War coming out.

(Sgd.) J. H.

[Endorsed]: No. 116. Libelee's Exhibit "A"  
(Captain Henry). Filed Nov. 8, 1911. [3372]

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**[Libelee's Exhibit No. 4.]**

Frederick C. Miller,

To

J. Metcalfe, Dr.

One Wooden Stock Anchor approximately

10,000 lbs. as agreed .....	\$650.00
2000 Feet 4 lbs. Wire Rope as agreed.....	250.00
1500 Feet 4¼ lbs. do do.....	300.00
700 Feet Galv. Wire Hawser do.....	250.00

*Inter-Island Steam Nav. Co., Ltd., et al.* 3345

1 Wire Cutter	do.....	10.00
1 Small Wire on Reel	do.....	75.00
20 Planks	do.....	20.00
10 Bdls. Oakum, as is	do.....	20.00
1 Rigging Screw	do.....	2.50
1 Blake Pump	do.....	800.00
2 18 Blake Wood Block	do.....	36.00

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\$2413.50

Paid to H. Hackfeld & Co., Ltd., October 9th, 1906.

[Endorsed]: No. 116. Libelee's Ex. No. 4. Filed  
Aug. 28, 1911. [3373]

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[Exhibit "E".]

EXTRACT FROM TIDE TABLES, 1909,  
DEPARTMENT OF COMMERCE AND LABOR.  
December, 1909.

Moon.	Day. Week. S.	Month. 5	Time and Height of High & Low Water.			
			4:12	10:01	17:14	
			0:7	1.2	0.0	
E.	M.	6	0:29	5:52	11:00	17:41
A.			1.1	0.7	1.1	0.0
	T.	7	0:57	7:00	11:48	18:07
			1.3	0.6	1.0	0.0
	W.	8	1:28	8:00	12:30	18:37
			1.5	0.5	0.8	0.1
	T.	9	2:00	8:52	13:12	19:09
			1.7	1.5	0.7	0.1

[Endorsed]: No. 116. Exhibit "E" (Miller Salvage Co.). Filed Sep. 22, 1911. [3374]

[Title of Court and Cause—Nos. 115, 116, 117.]

[**Opinion.**]

L. J. WARREN (SMITH, WARREN & HEMENWAY With Him), for Libelants, Inter-Island Steam Navigation Company, Ltd., and Matson Navigation Company.

P. L. WEAVER (MAGOON & WEAVER With Him), for Libelant, Miller Salvage Company, Ltd.

C. H. OLSON (HOLMES, STANLEY & OLSON With Him), for Libellee.

Three libels *in rem*—of the Inter-Island Steam Navigation Company, Limited, claiming \$35,000 as compensation for salvage services, the Miller Salvage Company, Limited, claiming \$20,000 for similar services, and the Matson Navigation Company, claiming \$15,000 for similar services—against the British ship "Celtic Chief," her cargo and freight, are here consolidated for the purpose of trial. During the course of the hearing, the Inter-Island Company modified its claim to \$25,000 and the Matson Company its claim to \$10,000.

Each company libelant concedes that in addition to its own efforts in the alleged salvage operations, which effected the removal of the ship from a condition of stranding on a reef, some assistance was rendered by the other libelant companies and also "some very slight assistance" by a German cruiser the "Arcona," in whose behalf no claim for compensation is made.

In behalf of the ship, the claimant, her master, Captain Henry, contends that the Miller Company,



though having lightered 239 tons of cargo and rendered some service with its anchor and tackle in pulling the ship away [3377] from the reef when finally afloat, or in starting her toward deep water as she neared the floating, has forfeited any award by reason of the wilful misconduct of its superintendent, Captain Miller, in deliberately concealing from the other pulling agents, for at least two hours before the ship left the reef, his own knowledge that she was about to float free—that he and his company might have the more credit for her rescue. This point was not made in the claimant's answer, but is urged in his counsel's brief from certain evidence in the case. Other misconduct of the Miller superintendent, of which complaint is made, is his attitude, appearing from the evidence, with regard to the possible bumping of the "Arcona" by the "Celtic Chief" as she came off the reef—he desiring such collision as proof that the German cruiser was not pulling. And also the commencement of lightering operations without laying anchors to prevent further drifting aground, and the delay in bringing to the ship's assistance an available, large anchor of the Miller Company until the morning of Wednesday, two days later than agreed, are assigned as negligence.

The claimant contends that the Matson Company is entitled to no salvage, by reason of the want of success of the efforts of its tug the "Intrepid," and of the misconduct of her master, Captain McAllister, in refusing to obey the request of the "Celtic Chief's" master to yield the "Intrepid's" position to the "Ar-

cona," a more powerful vessel.

As to the Inter-Island Company, the claimant contends that its services were of the lowest order of merit, mere towing and lightering under conditions of no danger to [3378] either the salvors or the salved ship, and requiring no high degree of skill, and in which the salvors were actually negligent in beginning to lighter without having laid out anchors to prevent further drifting aground. However, there is conceded to the Inter-Island Company an award of \$4,379.77, being interest at 40 per cent per annum on the value of the property in use for the number of days each item was used, added to that company's own estimate of its expenses, \$3,561.77, i. e., only \$818 net for its services.

The claimant contends that, while the Inter-Island vessels and the Miller tackle did some pulling at the time the ship came off, one of the chief elements in her floating was the great strain on the lines of the powerful cruiser "Arcona."

The value of the "Celtic Chief," her cargo and freight money, is also made an issue. And with regard to costs, it is contended by the claimant that the three libelants should each bear one-third, in view of their exorbitant claims.

The facts, as found to be established by the evidence and by the admissions of the pleadings, are hereinbelow set forth.

At about 2:30 o'clock in the morning of December 6, 1909, the "Celtic Chief," bound from Hamburg, Germany, to Honolulu, with a cargo mainly of fertilizer and a small quantity of general merchandise, ran aground on a shoal reef about one-half mile

to the westward of the channel [3379] entrance to the Honolulu harbor. When off port early on the previous evening her master, Captain Henry, who was without experimental knowledge of Hawaiian waters, had been warned, by Captain Macaulay, the harbor pilot, of being too close to the reef, but this advice was not heeded, whereupon the pilot immediately boarded the ship and offered further advice, which, also, was not heeded until too late. And at 9 o'clock that night the ship ran lightly aground on this reef, where she remained in a calm until 2 o'clock the next morning, when an offshore breeze arising, she put on sail and endeavored to make the open sea, but had hardly gained headway before the breeze died down and left her in nearly the same position as before.

The reef in this locality runs east and west in ledges of coral rock, the outer ledge rising abruptly from deep water and extending back in a northerly direction on a plane of very slight grade for about a thousand feet to another ledge from two to four feet higher. The surface of the outer ledge presents patches of sand interspersed with hummocks of outcropping coral, some of them of boulder size. Though the sea-bottom here shows superficially more sand than coral, the dominant character of the reef is coral rock, somewhat sharp and of some degree of hardness, but at its surface not hard enough to withstand grinding under the moving weight of a vessel such as the "Celtic Chief."

The air continued calm until about daybreak of Monday. Thereafter a light southeasterly breeze prevailed instead of the northeast trades which blow

most of the year, but the indications, indeed immediate probabilities, were of [3380] a "kona" or period of southerly winds likely to blow strong and steady for several days, not uncommonly developing into a protracted gale. See *The Chiusa Maru*, 3 U. S. Dist. Ct. Haw. 366-367. A considerable but by no means extraordinary swell was striking the ship on her starboard quarter, and a current of from one to three knots per hour was running more directly against her starboard,—in other words, the current ran more from east to west and the swell more from south to north, the former more parallel with the reef, the latter more at a right angle with the reef. The southerly swell continued throughout the stranding, varying in height to an average maximum of about eight feet. One of the photographs in evidence forcibly bears out the testimony on this point. The swell broke on the reef somewhat further in than the ship, as is also shown by two of these photographs; and, of course, the sudden change of height of the plane of seabottom on going from deep water to the reef would tend to roughen the water in the vicinity.

For some time after both the first stranding and the second stranding, signal lights of distress were burned, but without response, and it was not until after daylight that help came, when, at about 6:30 o'clock, the Young Brothers' Launch "Huki-Huki" appeared. She exerted a pull on the stern of the "Celtic Chief" with a new 4-inch manilla hawser (manilla lines are herein measured by circumference, steel lines by diameter). but withdrew after about an hour. No claim is made in her behalf. At



about 7 o'clock there came [3381] the tug "Intrepid" of the libellant Matson Company, which after a few minutes' inconclusive dickering for terms of compensation gave the ship "Celtic Chief" a 12-inch manilla hawser about 100 feet long with a 1 $\frac{1}{8}$ -inch steel wire about 300 feet long attached to it, making a line of about 400 feet clear length. She towed more or less continuously until Wednesday noon. The tug's position was almost astern, her line attached to the ship's starboard quarter. The "Intrepid's" tonnage was, gross 123, net 55. Her engines were of 350 horse-power. No showing was made of the useful or effective thrust of her propeller. She carried 12 men including her master.

When the first assistance came, the ship lay headed in a northeasterly direction, making an angle of about 45 degrees with the reef, with her stern on its outer edge and her bow free, her starboard anchor down.

As the current and swell inclined to move the ship further on the reef and into a broadside position, and as her starboard anchor had comparatively little holding power from the small amount of chain which was out, and which could be put out with safety as she lay, it was decided by the master and by Captain Macaulay, who remained on board throughout and was the master's chief counsellor during the stranding, to be of great advantage to get the ship at right angles to the reef so as to receive the sea as much as possible right astern. Accordingly, the starboard anchor was taken up and, with the tug and the launch holding her stern, the ship swung around to the desired position, her head pointing



northerly. This position was maintained until she [3382] came off at 12:20 o'clock A. M., Thursday.

From the moment of touching the reef and until the arrival of the tug "Intrepid," the ship was gradually altering her position, being carried forward by the swell, her tendency being toward a position broadside to the reef. After taking the tug's line, her position on the reef was easier, but in spite of the efforts of the tug and of the Inter-Island vessels which soon arrived, she kept gradually going in during Monday until on that night she was aground for her whole length, and moved about six feet still further in on Tuesday; by Wednesday morning her forward movement had ceased. In this forward movement she had been carried fully 70 feet. Her final position, solid on the reef, may be appreciated by a comparison of her draft laden to water line, as she was on this voyage,—20 feet 10 inches forward and 21 feet aft,—with the soundings of the water around her—16 feet forward, 18 feet amidships, and 19 feet aft.

The Inter-Island company's steamship "Mikahala" arrived at about 10:30 o'clock on Monday morning, and within a half hour later the "Mauna Kea" of the same company. The master of the "Celtic Chief," upon their inquiry, expressed his desire to have all the assistance obtainable, and they at once passed lines to the ship,—the "Mauna Kea" a new 12-inch manilla hawser of about 600 feet length through the ship's port quarter wharfing chock and fast around the mizzenmast, and the "Mikahala" a new 8-inch manilla hawser through the ship's starboard quarter chock to strong iron bitts on the main

deck. The "Mikahala's" line was attached to a bridle [3383] (or double line) running in through the steamer's midship chocks, port and starboard. On Wednesday the "Mikahala" ran a second line of the same kind and size from her port chock amidship to the same point of attachment on the "Celtic Chief" as her first line. The "Mikahala" pulled by use of her propellers almost continuously thereafter until the ship was floated, having out about 400 feet of towing line and her port anchor down about two points (a point is  $11\frac{1}{2}$  degrees) east of the ship's stern, with about thirty fathoms of chain in about five fathoms of water,—the purpose of her anchor being principally to maintain her in position. Her bearing from the ship was S. E. by E. The "Mikahala's" tonnage was, gross 444, net 354. Her engines were 404 horse-power. The useful or effective thrust of her propeller was about 2.97 tons both tied up and running free. She carried a crew of 35 men besides her master.

The "Mauna Kea" dropped anchor off her port quarter, put a heavy and steady strain on her line and, after several hours' pulling, parted it at the ship's quarter chock. The line was again made fast, and the steamer, going full speed ahead in a quick jump, broke it a second time, pulling so hard as to make a  $1\frac{3}{4}$ -inch dent in the steel mast to which the line was fast. Once more she ran her line to the ship and pulled until 7 o'clock Tuesday morning when she left to make her regular scheduled run to Hilo with mail, passengers and freight, and her place and towing line were taken at 8 o'clock by the Inter-Island vessel "Helene." The bearing of

the "Mauna Kea" was southward and a little to the westward of the stranded ship. That "there was a big weight on the [3384] 'Mauna Kea's' line all the time," "that it had a good strain on it," is admitted by the "Celtic Chief's" master and first mate. The "Mauna Kea's" tonnage was, gross 1,566, net 940. Her engines were 2,400 horse-power. The useful or effective thrust of her propellers was over 12 tons both tied up and running free. Her crew was of 60 men, besides her master.

The "Helene" placed her two 2,000-pound anchors for the special purpose of effective heaving on her anchor chains, in addition to pulling by her propellers. She lay at a distance of 635 feet from the "Celtic Chief," and her starboard anchor had out 90 fathoms of chain and her port anchor about 60 fathoms, these anchors being two or three points apart. Her 12-inch line was not only itself fast to the vessel but was also attached thereto by a bridle. The "Helene's" tonnage was, gross 618, net 392. Her engines were of 470 horse-power. The useful or effective thrust of her propeller was 3.11 tons tied up and 3.26 tons running free. Her crew was 31 men besides her master.

On Wednesday noon the Inter-Island company's steamer "Likelike" laid out her anchor ahead about two points off the ship's stern and passed to the ship an 8-inch manilla hawser, which was made fast through the port quarter hawse-pipe to bitts on the main deck. The "Likelike's" tonnage was, gross 374, net 214. Her engines were of 340 horse-power. The useful or effective thrust of her propellers was about 2.5 tons both tied up and running

free. Her crew was of 28 men besides her master.

[3385]

Meantime on Monday morning at about 7:30 or 8 o'clock, Captain Miller, representing the libelant Miller Salvage Company, offered his assistance, without agreement as to compensation, and about 10 o'clock the Miller boats,—the schooner "Concord," the gasoline motor boat "Mokolii," and the steamship "James Makee,"—arrived and the lightering of the cargo began, stevedores passing out by hand bags of fertilizer directly into these vessels which were moored alongside the ship. After noon of Monday the Miller lighter "Kaimiloa" was also brought out. The Miller company's men continued lightering until 2:30 A. M. of Tuesday. By this time they had taken out 239 tons of fertilizer, which was carried to the wharf and discharged.

On Tuesday afternoon Captain Miller came out with a so-called 7-ton anchor (actual weight 10,000 pounds) which was finally laid out astern and connected with the "Celtic Chief" through the starboard after-chock by powerful lines and a system of triple purchase tackles rigged on the deck of the ship and worked most of the time from the ship's duplex capstan with sixteen men at the bars, and when infrequent occasion offered by the ship's winch. These lines consisted of a new  $2\frac{1}{4}$ -inch steel wire cable attached to the anchor and a new 12-inch manilla hawser shackled to this wire at about 30 feet from the ship's stern, the manilla line being reinforced by a double piece of  $1\frac{1}{2}$ -inch steel wire. The large manilla line was attached to the system of three tackles through the first, second and third



triple blocks of which [3386] ran, respectively, 7-inch, 5-inch and 3¼-inch falls of new manilla rope. The Miller anchor lay about 900 or more feet almost directly astern of the "Celtic Chief" and a little to the starboard. The Miller company employed under Captain Miller about 45 to 60 men, most of them working overtime from 5 to 11 hours in addition to a full day on Tuesday and Wednesday, and in addition to a three-quarter day on Monday. Besides the above vessels, a small gasoline launch, the "Elizabeth," was used in the Miller company's operations.

At the request of the ship's master, the Inter-Island company's superintendent, Captain Haglund, began lightering operations at about 11 o'clock Tuesday morning, working at the main hatch until noon, and after 1 o'clock at both the main hatch and the after hatch with an increase of men, continuing all that afternoon and evening and until about 2 o'clock Wednesday morning. Men from the crews of the "Mikahala" and "Helene" and extra stevedores, about 100 in all, were thus employed. About 6 A. M. lightering was resumed and continued until about 11:30 P. M., or shortly before the ship was free. At about noon of Wednesday a floating donkey-hoist was moored by an anchor and lay opposite the main hatch of the port side, as a complement to the ship's winch which was used throughout but which was inadequate for all the work required. The Inter-Island company took out about 365 tons of cargo, carrying it in surf boats to the Inter-Island steamers, whence it was discharged at the wharf. [3387]



At noon of Wednesday the cruiser "Arcona," of tonnage of 2,800 and horse-power 8,200, and a full equipment of anchors and lines, came out to assist the ship, at the request of her agent and of the British consul. Monday evening and again on Tuesday she had been called upon for aid, but her commander "did not relish the job," and wanted to wait a day to see if the salving agencies at work were not successful unaided. The master of the "Celtic Chief" desiring that the "Arcona," because of her great power, should have the most favorable position, occupied by the "Intrepid," requested the master of the tug to cease towing, so that his line could be cast off, but he refused to yield. The ship's master then sent a note in writing to the same effect, stating as his reason for this action the desire "to make a good berth for the man-of-war," also offering to take the tug's line "from some other part of the ship." But as the tug still stood firm, her line was cut by order of the ship's master. The "Intrepid" then made room for the "Arcona," and continued to lay within hailing distance in case of need, though informed that his assistance would not be required further. It was a condition imposed by the commander of the "Arcona" that his vessel should have the "Intrepid's" position astern before giving any aid.

The "Arcona" dropped her port anchor dead astern of the "Celtic Chief" and a little outside the position of the "Helene." After having parted her first line, of manila, which appears to have been merely a messenger for another line, she passed a small wire line of her own to the ship and started [3388] ahead at increasing speed. The wire broke

almost immediately. This was at about high tide, between 12 and 1 o'clock. She swung around to her anchor and drifted with the swell and current down rather close to the "Helene." She hove anchor and moving further eastward and seaward, dropped her port anchor again, this time about directly ahead of the "Mikahala's" bow and some three or four hundred feet distant therefrom. Her stern was then on a line directly ahead of the "Mikahala's" bow. She paid out more chain and swung westward toward the "Helene" until she was halfway between the "Helene" and the "Mikahala" and seaward of them a little. She then ran a wire of her own and took one from the ship, started her engines ahead, and after pulling for from five minutes to a half-hour, broke the ship's wire at about 3 o'clock. She then attempted for several hours to get a long wire aboard the "Celtic Chief," but failed, and again ran two wires, using the ship's broken wire which had been spliced and reinforced; between 6 and 7 o'clock she had finally made fast, and proceeded to "equalize" the wires and to then heave in on her anchor-chain, not using her propellers at all. She kept somewhat of a strain on her anchor-chain thereafter until the ship floated. About 8 o'clock she turned on her two large search-lights, which afforded a favorable condition for the salvage operations during the rest of the evening.

A vast, and very much of it profitless, mass of testimony was offered on the point whether the "Arcona" did any pulling on the stranded ship,—that is, by means of her steam winch's hauling in on her anchor-chain, for it was not contended that she made

any use of her propellers until after [3389] the ship was free from the reef,—and if she exerted any efforts, whether they were effective. The barrenness of the depositions of the “Arcona’s” officers, and the fact that these witnesses were content to refer to an official report which was not in evidence, deprived the Court of most of their knowledge on vital points. Detail and circumstance were greatly to be desired, but these depositions were too general and sketchy to be of much assistance, and raised inconsistencies which a more searching examination of the witnesses might have removed. This deficiency is not attributed to anything more than the inherent limitations and inefficiency of an examination on written interrogatories. The testimony of the “Arcona’s” officers is apparently irreconcilable with that of other witnesses of undoubted veracity who were present at the time when, and for several hours before, the ship was freed. The master of the “Celtic Chief” also testifies in apparent disagreement with others who testified to there having been little or no strain on the “Arcona’s” lines at that time. The testimony of the “Celtic Chief’s” first mate, Lowry, as to strain upon the “Arcona’s” lines is not to be referred to the vital period here, for from 10 to 11:30 o’clock he was resting below, and thereafter was busily engaged forward. His testimony of a great strain that crushed the “strong-backs” does not fix the time of this strain and it cannot be assumed to apply to the period in question,—when the witness was not in a position to observe. It may well, and most likely, have applied to the time when the “Arcona” was

using her powerful engines to move her propeller.  
[3390]

No justification appears for the imputation of falsehood to the German officers and Captain Henry, who testified to there having been a strain on the "Arcona's" lines and to her having heaved on her anchor-chain for the two or three hours before she was floated, and the apparent conflict of testimony can be fairly attributed to nothing more than difference of viewpoint, difference of degree of intensity implied by use of such words as "tight," "taut," "strain," *et cetera*, referring to lines and anchor-chains, and perhaps, though less likely, actual error of observation.

The reason which at least four credible witnesses assign as preclusive of the application of any power to the anchor-chain, to wit, that if such power had been applied, the "Arcona" or her lines would have run afoul of the "Mikahala," is somewhat difficult to explain away; but repeated reviews of the testimony, and regard for the principle by which testimony in apparent conflict is to be reconciled if possible,—for we are not to impute untruth to anyone in the first instance or to one witness rather than to another,—all incline me to the belief that such testimony of Captain Macaulay and other credible witnesses is in error. I do not think the "Arcona's" anchor was as far over toward the line of direction of the "Mikahala" as Captain Piltz, e. g., believed or supposed.

And the testimony of the Inter-Island witnesses bears this out. Although Captain Macaulay placed the "Arcona's" anchor far over on the port bow and



directly, and only a little, ahead of the "Mikahala" and the "Mikahala's" anchor out dead [3391] ahead of the "Mikahala," Captain Tullett, master of the "Mikahala," placed the anchor of his own ship about as far over on her port bow as he, and as Captain Macaulay also, placed the "Arcona's" anchor with relation to that vessel, but much further ahead of the "Mikahala" than Captain Macaulay. Now, again, Captain Piltz, first officer of the "Mikahala," testifies not that the anchor of his ship was dropped dead ahead, as Captain Macaulay's diagram shows, but "on our weather, port, bow," and that "the winches were used, first pulling to take in slack of anchor-chain and after[wards] keeping tight; that was the way we lay, with anchor-chain ahead tight." So, if the "Mikahala's" anchor lay on her port side and the chain was kept taut, the result would be that the "Mikahala" with strain on her chain would be pulled as far over to port as was the "Arcona" with strain on her chain, and there would be no danger of interference. To appreciate these conditions, reference should be made to Captain Tullett's diagram, Libelants' Exhibit "H." I may say here that I am not unmindful that after 11:45 o'clock the "Mikahala" had lost her anchor in an effort to heave it in, on her master's order to get in readiness to tow the "Celtic Chief." But it was then still the "Mikahala's" duty to look out for the "Arcona," and it may be presumed that she did it. Another thing, in spite of some instances of clumsiness and want of foresight and of forethought manifested in the "Arcona's" operations, it should not be inferred except as an unavoidable inference, that she would place her



anchor in a position of danger to herself and to the "Mikahala." It is equally clear that the "Mikahala's" officers, so intelligent, alert, and experienced in salvage operations, would not have observed such action on the part of [3392] the "Arcona" without complaint or effort to have her take a safer position,—of which there is no evidence. The "Arcona" moved her anchor from its first position to avoid interference with the "Helene" on her starboard: is it reasonable that she should have picked up anchor only to at once place herself in danger of interference with another vessel on her port, especially when consideration for her own safety and great reluctance at mixing in the operations at all, were her prime controlling motives?

The testimony of the Inter-Island witnesses on this point is, on the one hand, of the tautness of manila lines and on the other of the slackness of steel wire lines,—or rather not so much a condition of slackness of lines as of lines running from their points of exit at more or less of an acute angle or approaching the perpendicular, as contrasted with a condition of lines standing out more or less horizontally, "tight as a fiddle-string," as one witness, though not an Inter-Island witness, said in exaggeration. Such testimony might be explained by differences of density of the lines compared; the manila line tends to float, the steel wire to sink, and under even a fair strain a long steel line would naturally not be as straight as a line of more buoyant material, such as manila rope.

On the whole, though the depositions leave much to be desired on this point, I am of opinion that there

was some strain on the "Arcona's" lines, perhaps such a strain as the power of her winch would permit, or could effect under the conditions,—it being remembered that the weight of the two [3393] long steel wires and the force of the current and swell against the comparatively large mass of the cruiser gave some resistance for the winch to overcome, aside from the resistance or inertia of her anchor and anchor-chain. I do not find that the winch was being used constantly, but, in accordance with the commander's orders, that "the hawsers were to be made taut by heaving in the chain," and "to be kept taut all the time by heaving in the chain as soon as the hawsers would slacken." Witness Mason described her lines fairly when he said that the "Arcona" was "only hanging on to her anchor,"—"not pulling, but her lines were fairly taut."

However, as it is conceded by the claimant, that the "Arcona" was exerting force only through her winch's heaving in the anchor-chain, there seems to have been no occasion for all the contention and the great mass of testimony over so small an element of aid.

For the "Helene" was using her own winch in the same way and had down two anchors whose combined weight, with the combined weight of their chains, was at least about a ton and a third, and perhaps two and a third tons more than the weight of the "Arcona's" anchor and chain, and the "Helene" put all the power that she could on her winch. The "Helene's" two anchors were laid farther out than the "Arcona's" anchor, one about 200 feet further and the

other 30 feet further, giving her anchors better holding power.

As the "Helene" was exerting power more effectively, as I find, in a similar way at the same time, it cannot be that the "Arcona" can take all the credit or any more than a share [3394] of the credit for pulling the "Celtic Chief" from the reef. The mere fact that the "Arcona" was a larger vessel than the Inter-Island boats, and her engines vastly more powerful, is immaterial. Her anchor-moving agencies cannot be presumed,—in view at least of the evidence as to the comparative size of anchors of the two vessels,—to have been any more powerful. But, at all events, I do not find that it was any pulling agencies that saved the ship from her position on the reef,—that is, primarily. But it was the lightering that put her further afloat or so nearly afloat that her moving was comparatively easy.

The pulling agencies did not keep her from going further on the reef at least until some time on Tuesday,—which is rather significant and, to my mind, speaks strongly of the force of the "Helene's" heavy anchors then placed, at about 8 o'clock A. M., far out ahead for the express purpose of holding. Her forward movement had already ceased a day or so before the "Arcona" was finally made fast to the ship. So the cruiser cannot have any credit on that score.

It may be, however, that too much credit should not be given to the "Helene" for the ship's final stationary position, in view of the circumstantial evidence,—afforded by the soundings above given, showing a rapidly lessening depth of water from stern to stem,—of the hard-aground condition of the ship as

due to her keel's being carried forward with great force against a more sharply sloping sea-bottom. It may be noted, that earlier soundings had shown 19.5 feet all around the ship; also that her keel was, finally, embedded [3395] 6 inches, in Captain Macaulay's opinion, and as much as 12 inches in the opinion of other experienced seamen. But this might prove only the ship's stable equilibrium at low or average water, and not that the considerable holding power of the "Helene's" anchors would not be called for at high tide large, when the sea level was a foot and a half or more higher. And, under all the evidence, I feel justified in giving full credit to the "Helene's" anchors for the ship's secure position.

The pulling agencies had accomplished nothing positive toward the removal of the ship from her stranded position to a place of safety. Therefore it was reasonable to seek increased and more speedy lightering. In the early evening of Wednesday, a point was reached when Captains Macaulay and Henry were calculating that the removal of only a comparatively few more tons, about 80, would enable the ship to float at high tide large of that midnight. Only about 40 tons were removed, however, before lightering was stopped, at 11:30, and before that time the ship had become livelier and was soon rolling in her bed.

When the Inter-Island men stopped lightering at 11:30 o'clock Wednesday night, over 600 tons of cargo had been removed. By midnight, this lightering and the increase of the tide to its flood, had, as just intimated, begun to show their effects. At about 11:45 the ship was first seen to be moving seaward,



gradually, very slowly. She seemed then to stop and her subsequent movements to have been more decided and distinct, i. e., not one gradual movement. Her momentum then gradually increased again, and at 12:20 the [3396] "Celtic Chief" left the reef. All lines other than those of the "Arcona" were immediately cut away except that the "Mikahala" kept one line fast until she had pulled the ship off to eastward away from the "Arcona," which she was approaching—some say dangerously close, depending upon their viewpoint. And I am inclined to think that there was danger of bumping, though bumping did not actually occur. The "Arcona" kept at first both lines, and then only one, fast and towed the ship by her stern for some distance. It was understood that the "Arcona" was to take the ship to an anchorage, but when a mile—and unnecessarily far—out to sea, her commander desired to be relieved. Whereupon the "Mikahala" towed the "Celtic Chief" to a safe anchorage, and in the morning the Inter-Island steamship "Maui" took her into the harbor.

It is undeniable that the "Celtic Chief" was rescued from her unfavorable position and brought to a place of safety by efforts other than her own, and that those efforts were exercised by the tug "Intrepid," the Inter-Island ships and men, and the Miller anchor and tackle and the Miller boats and men, and by the cruiser "Arcona." The services of all but the "Arcona" were substantial, indispensable; the efforts of the "Arcona" were not substantial, were not indispensable, and were rendered in a manner which was clumsy and slow, and which might have been a source of danger. Her services



would, however, be entitled to some allowance. But not as much as if she had lent her hand "with a will"; for, if it was for any purpose that she came out there, and her presence was desired there, it was for the great power of her propelling [3397] engines and not the ordinary power of a capstan engine or winch engine. It is evident that her commander preferred to wait until daylight, which they had already wasted in a prodigal manner, when they might by such promptness and decision as shown by the "Helene," have been ready to exert her pulling powers at the preceding high water at noon and thereafter. This is important only as bearing on the attitude of the cruiser as a salvor, because actually her efforts were not needed: the ship would have come free without her.

It may be noted here that a half-heartedness characterized the efforts of the "Arcona's" men. They were gingerly, in a fear of damage to their vessel. At the start they used comparatively small lines, then tried to put a large wire aboard but by means which were sure to fail because of the want of a buoying agency to keep the wire's great weight afloat. Their fear of the small lines is evident, wherefore the attempt to run a large line, and fearing further breaks and the danger consequent with the smaller lines which were retained, they may not have executed quite their best efforts. The fear of fouling broken lines explains why they did not use their propeller on Wednesday night. But it seems feasible to have run the larger line, had they been persistent and only disposed to do what was necessary though inconvenient,—viz., secure a large launch (and the "Arcona" had one herself) or buoy-

ing agency to keep the heavier line from the seabottom. They used only small boats. It would seem, however, that the master of the "Celtic [3398] Chief" should himself have appreciated the necessity for a buoying agency,—for instance, the "Intrepid" was there at hand and with her small draft could get up close to the ship,—and he should have supplied the quick wit which the Germans either wanted or were not ready to act upon. It is probable that the careful and certain calculation of the ship's floating upon being relieved of a certain amount more of her cargo made the "Arcona's" officers confident that the case would not be one requiring any great amount of pulling,—merely the operation of towing a floating ship.

The "Intrepid's" services, though on the whole of far less value than those of the Inter-Island and Miller companies, were of great value, were indispensable, as she arrived very promptly and gave the first efficient aid. Her master Captain McAllister, did wrong in not giving place to the "Arcona" at the request of the "Celtic Chief's" master, especially as the "Celtic Chief" offered to take his line at another place. But he showed the right spirit in moving promptly out of the way immediately when his line was cut and in laying near by ready to help if required, even after dismissal by the "Celtic Chief's" master. Therefore, I do not feel called upon to penalize the "Intrepid," though, under other circumstances, especially a wilful disposition to hinder the operations, a reduced award would have been just.

Before determining the amounts of the awards

to which the various libelants are entitled, I will dispose of the claim that the Miller Company had forfeited its rights by misconduct. The only fault I can find is, that Captain [3399] Miller had made too much out of what naturally arose from sportsmanlike rivalry between the Miller men and the Inter-Island men, and perhaps a little more than rivalry, though probably "only human," between these local men and the foreigners who came on the scene late and displaced one who had been the first to aid. If Captain Miller was guilty of anything, it was of false swearing, but I do not wish to be understood, for I do not feel so justified, as imputing deliberate falsehood to his testimony. His attitude as to bumping the "Arcona" is not approved. Some may excuse it as "only human," for it was clearly inspired by much the same considerations as have been intimated in our discussion of rivalry; yet it is heroic and generous qualities that are to be rewarded in cases of salvage, the highest "human" qualities, and when one goes to rescue a ship in distress, he should leave the weaker "human" qualities behind. The award given to the Miller company will, therefore, not only for Captain Miller's mental attitude, but for the little he was actually doing under its impulse, be reduced by \$400, being double the amount which Captain Miller himself considered would cover any possible trifling damage that might result from a bumping. The allegation of negligence in the Miller company's having begun lightering without having put out anchors comes with poor grace from the master of the "Celtic Chief," who was from the very first advised by Cap-

tain Miller to put out the "Celtic Chief's" own extra anchor seaward or to let him get the Miller anchor which was finally put out, but whose advice was not then acted upon. A mere reference to Captain Henry's own testimony will suffice to show [3400] the unfairness of this claim. The fact is, that Captain Henry was more anxious to have the Miller Company lighter than to bring out its anchor. It might have done both, however, but so far as Captain Henry is concerned, that does not appear to have been urged by him. A similar claim to reduce the award of the Inter-Island Company is even more unreasonable. For the "Helene" had her anchors out three hours before the Inter-Island began lightering.

Enough has been said to indicate that what was effected on Wednesday night might as well have been done at high tide, and more safely by daylight high tide, at least a day, and possibly more, earlier. When the men and the ship's engines and appliances did work, they worked with energy and efficiency, though the pulling agents towed at reduced speed at low water, as was advisable. The Inter-Island and Miller men and the men of the "Intrepid" were deserving of praise for their efforts and their spirit.

The element of danger was clearly present—not the danger of rough weather, though that was actually imminent, but particularly the danger of the ship's being rapidly pounded to pieces on the coral sea-bottom, or thrown broadside on the reef, as the testimony shows to have been the case with other ships in this vicinity. She bumped considerably and was violently shaken when lifted by the swells early in her stranding. These dangers were relieved



more and more as the salving agencies came to her assistance. It does not take long for a vessel so heavily weighted to open her seams when lifted and dropped upon a resistant sea-bottom, [3401] the time of destruction being dependent upon the stress of wind and wave; and that the weather and sea conditions were so favorable was a lucky circumstance. The cargo was practically all of a character perishable on exposure to sea water. The fact that no leak resulted in these three days on the reef shows how effectively her early bumping was checked. It will be said here once for all that the ship was saved without material injury. There was danger to the men who lightered cargo into surf boats—especially the Inter-Island men. The case was a different one from that of lightering from a large vessel riding at anchor, and rising and falling with the swell, but to some of the men presented the peril of working in a small boat close to a solid body against which the sea was pounding, and under an overhanging sling carrying several hundred pounds' weight. The danger to the other men engaged was nothing more than is commonly involved in a seaman's or stevedore's work, except, of course, the increase of danger inherent in working under pressure and with engines and appliances strained to their limit of safety. The success of the lightering is demonstrated by the small amount of loss in the lightered cargo—only \$1,441.

The property saved was a ship whose value I find to have been \$25,000, accepting practically, with a little liberality, the valuation of men more experienced in appraising ships than was the Inter-Island's witness, whose expert knowledge clearly does not



extend to values in the present market. [3402]

The "Celtic Chief" was built in Dunbarton in 1885; an iron ship of 266.8 feet length, 39.5 breadth and 22.3 depth. Her tonnage was, gross 1,789, net 1,709. Her condition was first class. She was rated by Lloyds as "100 A-1." The conceded value of the cargo, including the freight thereon, was \$111,000, which less \$1,441, the damage to lightered cargo, gives a net value of \$109,559. This added to the value of the ship gives the aggregate value of property salvaged, as \$134,559.

The value of the Inter-Island vessels with their equipment, and the length of service of these vessels, according to their own witnesses, are as follows:

"Mauna Kea,"	\$325,000, engaged about 20 hours;
"Helene,"	100,000, engaged about 42 hours;
"Mikahala,"	40,000, engaged about 62 hours;
"Likelike,"	100,000, engaged about 12 hours;

The expenses of the Inter-Island operations, exclusive of regular salaries and wages, were \$3,561.77, including overtime of men, extra stevedores, launch hire, use of barge and donkey-hoist, extra fuel, loss and depreciation of ropes, lines, and anchor-chain and anchor. Overtime cost \$456 and extra stevedores \$1,059.

The highest value of the Inter-Island ships engaged at any one time was \$465,000, the lowest \$240,000.

The values of the Miller vessels engaged were, according to Captain Miller, as follows:

"Concord,"	\$3,000.	
"Mokolii,"	8,000.	
"James Makee,"	15,000.	[3403]
"Kaimiloa,"	2,000.	
"Elizabeth,"	4,000.	

The value of the Miller anchor and tackle was \$12,000. The aggregate of these values is \$44,000. The values were shown, by comparison with tax returns and purchase prices and other data, to be so exaggerated, that they can be safely discounted to one-half and still be very liberal.

In consideration of the foregoing views, I find that the services of the salving agents are reasonably worth \$30,000—which is about  $17\frac{1}{2}$  per cent of the value of property salvaged, plus interest at 6 per cent for the  $3\frac{1}{2}$  years since the services were rendered (see *The Chiusa Maru*, 3 U. S. Dist. Ct. Haw. 361, 371), for it is only just and equitable that allowance be made for the great delays, most of them at least unavoidable. Deducting \$500, which though small is all that can be allowed for the services of the “*Arcona*,” who is not suing for an award, there remains \$29,500, which is apportioned as follows:

To the “*Intrepid*” and her men, \$4,000, to be divided  $\frac{3}{4}$  to her owners the Matson Navigation Company, and  $\frac{1}{4}$  to her master and crew, *pro rata* according to their salaries or wages and the number of hours of their service, there first being deducted, however, an award of \$175, in place of any *pro rata* aforesaid, to Captain McAllister, whose award might have been somewhat more but for his attitude toward the request of the “*Celtic Chief’s*” master. [3404]

To the Miller Salvage Company, Limited, and men, \$8,000, to be divided  $\frac{3}{4}$  to the company and  $\frac{1}{4}$  to its men, *pro rata* according to their salaries or wages and the number of hours of their service, less \$500 which would have been awarded to Captain Miller but for his attitude above discussed. That is to say, the  $\frac{1}{4}$  is to be reduced by \$500 to \$1,500. And, as

above determined, the  $\frac{3}{4}$  is to be reduced by \$400 on account of the matter of the bumping of the "Arcona." The contention that the Miller company should have all the award and its men nothing is not favored. It is urged that the men were mostly at least hired for this special work, and that the rule contended for applies also where men are in the regular employ of a company engaged in salving as a business. It is not shown with any clearness or conclusiveness, if at all, that the men were to waive any rights to a share in the award. This fact, and considerations set forth by Judge Benedict in *The Cete-wayo*, 9 Fed. 717, 719, 720, influence my views of the contention.

To the Inter-Island Steam Navigation Company, Limited, and her men, \$17,500, to be divided  $\frac{1}{4}$  to the officers and crew and  $\frac{3}{4}$  to the company, *pro rata* according to their salaries or wages and the number of hours of their service. The award to the men is to be first applied as follows: \$500 to Captain Haglund, superintendent of the Inter-Island operations, \$250 each to Captain Tullett of the "Mikahala" and Captain Nelson of the "Helene." \$150 to First Officer Piltz of the "Mikahala," and \$75 to Captain Naopala of the "Likelike," all these special awards to take the place of the *pro rata* shares of these officers in the general [3405] award to the men.

Captain Macaulay, whose services were of special value, and who was on duty throughout, and was the guiding spirit in the operations, and whose testimony has been helpful in a full view of conditions at all times, makes no claim. But it would not be just to pass his services without special commendation.

As to the claims for expenses, the Inter-Island company's claim of \$3,561.77 is allowed, except as to \$1,515 for overtime and extra stevedores, which are covered by the general award; and the claim of the Miller company is allowed in the sum of \$1,400, being the amount claimed in its libel (the actual proof was \$65.26 more, but no amendment to conform to the proof is asked for, and while the Court's equitable powers may permit the presumption of an amendment, this seems not a case for the exercise of such powers at this stage, unasked). The Miller company's claim of \$726.30 for regular wages of men is disallowed as covered by the general award.

The Court is indebted to Mr. Warren, of counsel for libelants, for his very thorough, well-arranged and on the whole fair synopsis of the vast mass of testimony. Such briefs are most helpful, though it must not be understood that the Court has not itself given the case full and conscientious attention or that briefs of other counsel are disparaged. [3406]

As to the costs, the Court considers the claims aggregating \$70,000 excessive, and orders that the libelants divide the taxable costs herein, hereinafter to be taxed, between them *pro rata* according to the amount of their original claims set forth in the first paragraph of this opinion. See *The Manchuria*, 3 U. S. Dist. Ct. Haw. 150, 168.

Honolulu, June 17, 1913.

(Sgd.) CHAS. F. CLEMONS,  
Judge, United States District Court.

[Endorsed]: No. 116. Decision of Clemons, J., on Libel for Salvage. Filed Tuesday, June 17, 1913.  
[3407]



[Title of Court and Cause—Nos. 115, 116, 117.]

**Final Decree in Favor of Inter-Island Steam  
Navigation Company, Ltd.—No. 115.**

It appearing that heretofore the several causes above entitled, respectively, and being causes numbers 115, 116, and 117 of [3408] causes in admiralty in this court, were by order of this Court consolidated for trial; and said consolidated causes having come on regularly to be heard before this Court upon the pleadings and the evidence adduced by the respective parties, and the proctors for the parties having been heard thereon; and the said causes having been submitted to this Court for determination;

And the Court having duly considered the same and having on the 17th day of June, 1913, rendered and filed its decision in said consolidated causes; and the Court having determined that the services rendered to the above-named respondent The British ship "Celtic Chief," her tackle, apparel, machinery, boats, furniture, appurtenances, cargo and freight money by the said libellant Inter-Island Steam Navigation Company, Limited, and the officers and crews of its steamers the "Helene," "Mikahala," "Like-like," and "Mauna Kea" above named, and other servants thereof, were salvage services, entitled to compensation as in said decision and this decree provided;

NOW, upon motion of L. J. Warren, Esq., of Messrs. Smith, Warren & Hemenway, proctors for said libellant Inter-Island Steam Navigation Company, Limited, it is ORDERED, ADJUDGED AND DECREED, that the said libellant, Inter-



Island Steam Navigation Company, Limited, for itself and the officers and crews of its said steamers and other servants thereof, do have and recover from the said respondent The British Ship "Celtic Chief," and that said respondent the British Ship "Celtic Chief" do pay unto the said libellant Inter-Island Steam Navigation Company, Limited, accordingly, the sum of Seventeen Thousand Five Hundred Dollars (\$17,500), in lawful money of the United States, with interest thereon from the date hereof until paid at the rate of six per cent per annum, for its own use and in trust for its men as hereinafter provided, for the salvage services [3409] rendered by the said Inter-Island Steam Navigation Company, Limited, and said officers and crews of said vessels and other servants of said libellant, to be apportioned between them as hereinafter more particularly provided; and also that said libellant Inter-Island Steam Navigation Company, Limited, have and recover from said respondent, and that said respondent pay to said libellant Inter-Island Steam Navigation Company, Limited, the further sum of Two Thousand Eleven and 77/100 Dollars (\$2,011.77) as and for the amount of the actual costs and disbursements of said libellant on account of and during the said salvage operations.

And it further appearing to this Court that the said British Ship "Celtic Chief," and her tackle, apparel, machinery, boats, furniture, appurtenances, cargo and freight money have been released to the above-named John Henry, Master and claimant in this cause (No. 115), upon a stipulation in the sum of Thirty-six Thousand Dollars (\$36,000), with the

United States Fidelity & Guaranty Company, a corporation, of Maryland, as surety: It is hereby further ORDERED, ADJUDGED AND DECREED, that unless this decree be satisfied, or proceedings thereon stayed by appeal, within ten days after notice of this decree given by the libellant Inter-Island Steam Navigation Company, Limited, by its proctors, to Messrs. Holmes, Stanley & Olson, proctors for said respondent The British Ship "Celtic Chief," and said claimant, the said Surety, United States Fidelity & Guaranty Company, pay to the said libellant Inter-Island Steam Navigation Company, Limited, the said sum of Seventeen Thousand Five Hundred Dollars (\$17,500) and said further sum of Two Thousand Eleven and 77/100 Dollars (\$2,011.77) hereinabove awarded as aforesaid, or show [3410] cause within five days after the expiration of said period of ten days why execution should not issue against it, its lands, goods and chattels, according to said stipulation, to satisfy this decree. In the event of proceedings hereunder being stayed by appeal, the obligation of said surety under said stipulation shall be suspended, to satisfy such decree as shall or may be finally made herein upon mandate on appeal. And upon payment of the said sums of \$17,500 and \$2,011.77 (or as may be directed by any final decree upon mandate in case of an appeal), the said surety shall stand released from further liability on account of the said stipulation.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the said sum of Seventeen Thousand Five Hundred Dollars, so awarded as salvage herein, be and the same is hereby apportioned

three-fourths (or the sum of \$13,125) to the said Inter-Island Steam Navigation Company, Limited, as its share of said salvage award, and one-fourth (or the sum of \$4,375) to the officers and crews of the said steamers "Helene," "Mikahala," "Likelike" and "Mauna Kea," and other servants of said libellant; the said last-mentioned sum of Four Thousand Three Hundred and Seventh-five Dollars (\$4,375) to be deposited in the registry of this court pending further order to be and being hereby further apportioned and divided as follows:

To Capt. J. F. Haglund, then Superintendent of said Inter- Island Steam Navigation Co., Ltd., the sum of.....	\$ 500.00
To Capt. R. Nelson, then Master of the said Steamer "Helene," the sum of .....	250.00
To Capt. A. Tullett, then Master of the said Steamer "Mika- hala," the sum of.....	250.00
To Capt. Geo. E. Piltz, then First Officer of said steamer "Mi- kahala," the sum of.....	150.00
To Capt. M. Naopala, then Master of said Steamer "Likelike," the sum of .....	75.00

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Which said special awards amount  
in all to the sum of.....\$1,225.00

[3411] leaving remaining of said sum of \$4,375 a  
balance of Three Thousand One Hundred and Fifty  
Dollars (\$3,150), which last-mentioned sum shall be

apportioned and distributed between all of the officers and members of the crews of said steamers and other servants of said Inter-Island Steam Navigation Company, Limited, except (and excluding from participation in said last-mentioned sum) the said J. F. Haglund, R. Nelson, A. Tullett, Geo. E. Piltz and M. Naopola; that is to say, that said last-mentioned sum of \$3,150 shall be distributed between all of the officers (except as above named as excluded therefrom) and members of the crews of the said steamers "Helene," "Mikahala," "Likelike," and "Mauna Kea," and other servants of said Inter-Island Steam Navigation Company, Limited, whose names appear upon the payrolls of the said Inter-Island Steam Navigation Company, Limited, *pro rata*, according to the amounts shown as actually earned or due them respectively in salaries or wages during the said salvage operations from and including December 6th, 1909, to and including the time of the floating of the said British Ship "Celtic Chief" at or about the hour of twelve-twenty (12:20) o'clock A. M. on December 9th, 1909; and for the purpose of such apportionment of said sum of \$3,150, it is hereby further ORDERED that said Inter-Island Steam Navigation Company, Limited, file in this court within sixty (60) days from the date of this decree a sworn statement showing the names of the several officers and members of the crews of said steamers and other servants of said company participating in said salvage operations, and the rates of salaries or wages then being paid to each, and the amounts earned and due them respectively during the said salvage operations (including over-



time); the said apportionment [3412] then to be consummated under further order of this Court.

It is hereby further ORDERED, ADJUDGED AND DECREED that the said libellant Inter-Island Steam Navigation Company, Limited, pay on account of costs in the said consolidated causes 35/70ths (or one-half) of the taxable costs, the same to be taxed by the Clerk.

Dated, Honolulu, Territory of Hawaii, June 17th, 1913.

(Sgd.) CHAS. F. CLEMONS,  
Judge of the United States District Court in and for  
the District and Territory of Hawaii.

[Endorsed]: No. 115. Final Decree in Favor of  
Inter-Island Steam Navigation Company, Limited.  
Filed Jun. 17, 1913. [3413]

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[Title of Court and Cause—Nos. 115, 116, 117.]  
**Decree for Miller Salvage Company, Limited—No.  
116. [3414]**

It appearing that heretofore the several causes in admiralty above severally entitled, and being causes numbers 115, 116, and 117 of causes in admiralty in this court, were by order of this Court consolidated for trial; and said consolidated causes having come on regularly to be heard before this Court upon the pleadings and the evidence adduced by the respective parties, and the proctors for the parties having been heard thereon; and the said causes having been submitted to this Court for determination;

And the Court having duly considered the same and having on the 17th day of June, 1913, rendered



and filed its decision in said consolidated causes; and the Court having determined that the services rendered to the above-named respondent The British Ship "Celtic Chief," her tackle, apparel, machinery, boats, furniture, appurtenances, cargo and freight money by the said libelant Miller Salvage Company, Limited, and servants thereof, were salvage services, entitled to compensation as in said decision and this decree provided;

Now, upon motion of P. L. Weaver, Esq., proctor for said libelant, Miller Salvage Company, Limited, it is ORDERED, ADJUDGED AND DECREED, that the said libelant, Miller Salvage Company, Limited, do have and recover from the said respondent The British Ship "Celtic Chief," and that said respondent The British Ship "Celtic Chief" do pay unto the said libelant, Miller Salvage Company, Limited, the sum of Seven Thousand One Hundred (\$7,100.00) Dollars, in lawful money of the United States, with interest thereon from the date thereof until paid at the rate of six per cent per annum, [3415] for its own use and in trust for its men as hereinafter provided, for the salvage services rendered by the said Miller Salvage Company, Limited, and servants of said libelant, to be apportioned between said company and the foremen and men as hereinafter more particularly provided; and also the said libelant Miller Salvage Company, Limited, have and recover from said respondent, and that said respondent pay to said libelant Miller Salvage Company, Limited, the further sum of One Thousand Four Hundred (\$1,400.00) Dollars as and for the amount of its actual damages incurred during the said salvage operations.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the said sum of Seven Thousand One Hundred (\$7,100.00) Dollars, so awarded as salvage herein, be and the same is hereby apportioned Five Thousand Six Hundred (\$5,600.00) Dollars to the said Miller Salvage Company, Limited, as its share of said salvage award, and One Thousand Five Hundred (\$1,500.00) Dollars to the foremen and men of said company and other servants of said owner; the latter to be deposited in the registry of this court pending further order the said last-mentioned sum of One Thousand Five Hundred (\$1,500.00) Dollars to be and being hereby further apportioned among the foremen and men *pro rata* according to their salaries or wages and the number of hours of their service, with the exception of Captain Miller who shall take nothing for his services; that is to say, the said sum of One Thousand Five Hundred (\$1,500.00) Dollars shall be distributed among all the foremen, bosses and men and other servants of the Miller Salvage Company, Limited, who shall appear to have been employed by said Miller Salvage [3416] Company, Limited, *pro rata* according to the amounts shown to be paid or due them respectively in salaries or wages during said salvage operations from and including December 6, 1909, to and including the time of the floating of the British Ship "Celtic Chief" at or about the hour of twelve-twenty (12:20) o'clock A. M., on December 10, 1909, and for the purpose of such apportionment it is hereby further ordered that said Miller Salvage Company, Limited, file in this court within sixty (60) days from the date of this decree, a sworn statement showing the name of the several

foremen, bosses and men and other servants of the said company participating in the said salvage operations and the rate of salaries or wages then being paid them, and the amounts earned and due them respectively during the said salvage operations (including overtime); the said apportionment to be consummated under the further order of this Court.

And it further appearing to this Court that the said British Ship "Celtic Chief," and her tackle, apparel, machinery, boats, furniture, appurtenances, cargo and freight money, have been released to the above-named John Henry, Master and Claimant in this cause (No. 116) upon a stipulation in the sum of Thirty-six Thousand Dollars (\$36,000.00) with the United States Fidelity & Guaranty Company, a corporation of Maryland, as surety; It is hereby further ORDERED, ADJUDGED AND DECREED, that unless this decree be satisfied or proceedings thereon stayed by appeal within ten days after notice of this decree given by the libelant Miller Salvage Company, Limited, by its proctor, P. L. Weaver, Esq., to [3417] Messrs. Holmes, Stanley & Olson, proctors for said respondent The British Ship "Celtic Chief" and said claimant, that the said surety, United States Fidelity & Guaranty Company, pay to the said libelant Miller Salvage Company, Limited, the said sum of Seven Thousand One Hundred (\$7,100.00) Dollars and said further sum of One Thousand Four Hundred (\$1,400.00) Dollars, hereinabove awarded as aforesaid, or show cause within five (5) days after the expiration of said period of ten (10) days why execution should not issue against it, its lands, goods and chattels, according to said stipu-

lation, to satisfy this decree. In the event of proceedings hereunder being stayed by appeal, the obligation of said surety under said stipulation shall be suspended to satisfy such decree as shall or may be made herein under mandate as required. And upon payment of the said sum of Seven Thousand One Hundred (\$7,100.00) Dollars and said sum of One Thousand Four Hundred (\$1,400.00) Dollars (or as may be directed by any final decree upon mandate in case of an appeal), the said surety shall stand released from further liability on account of the said stipulation.

It is hereby further ORDERED, ADJUDGED AND DECREED that the said libelant Miller Salvage Company, Limited, pay on account of costs in the said consolidated causes its proportion of the costs hereafter to be taxed by the clerk, the sum of two-sevenths ( $\frac{2}{7}$ ) of the costs.

Dated, Honolulu, this 17th day of June, A. D. 1913.

(Sgd.) CHAS. F. CLEMONS,  
Judge, United States District Court, Territory of  
Hawaii. [3418]

[Endorsed]: No. 116. Decree in Favor of Miller Salvage Co. Filed Jun. 17, 1913. [3419]

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[Title of Court and Cause—Nos. 115, 116, 117.]

**Final Decree in Favor of Matson Navigation  
Company—No. 117.**

It appearing that heretofore the several causes above entitled, respectively, and being causes numbers 115, 116, and 117 of causes in admiralty in this



court, were by order of this Court consolidated for trial; and said consolidated causes having come on regularly to be [3420] heard before this Court upon the pleadings and the evidence adduced by the respective parties, and the proctors for the parties having been heard thereon; and the said causes having been submitted to this Court for determination;

And the Court having duly considered the same and having on the 17th day of June, 1913, rendered and filed its decision in said consolidated causes; and the Court having determined that the services rendered to the above-named respondent, The British Ship "Celtic Chief," her tackle, apparel, machinery, boats, furniture, appurtenances, cargo and freight money, by the said libellant Matson Navigation Company, and the officers and crew of its Tug "Intrepid," were salvage services, entitled to compensation as in said decision and this decree provided:

NOW, upon motion of L. J. Warren, Esq., of Messrs. Smith, Warren & Hemenway, proctors for said libellant, Matson Navigation Company, it is ORDERED, ADJUDGED AND DECREED, that the said libellant, Matson Navigation Company, for itself and the officers and crew of its said Tug "Intrepid," do have and recover from the said respondent, The British Ship "Celtic Chief," and that said respondent, The British Ship "Celtic Chief," do pay unto said libellant, Matson Navigation Company, the sum of Four Thousand Dollars (\$4,000), in lawful money of the United States, with interest thereon from the date hereof until paid at the rate of six per cent (6%) per annum, for its own use and in trust for its men as hereinafter provided, for the salvage



services rendered by the said Matson Navigation Company and said officers and crew of said tug, to be apportioned between them as hereinafter more particularly provided. [3421]

And it further appearing to this Court that the said British Ship "Celtic Chief" and her tackle, apparel, machinery, boats, furniture, appurtenances, cargo and freight money, have been released to the above-named John Henry, master and claimant in this cause (No. 117) upon a stipulation in the sum of Sixteen Thousand Dollars (\$16,000) with the United States Fidelity and Guaranty Company, a corporation, of Maryland, as Surety: It is hereby further ORDERED, ADJUDGED AND DECREED, that unless this decree be satisfied or proceedings thereon stayed by appeal within ten days after notice of this decree given by the libellant Matson Navigation Company, by its proctors to Messrs. Holmes, Stanley & Olson, proctors for said respondent The British Ship "Celtic Chief" and said claimant, the said surety, United States Fidelity & Guaranty Company, pay to the said libellant Matson Navigation Company, the said sum of Four Thousand Dollars (\$4,000) hereinabove awarded as aforesaid, or show cause within five days after the expiration of said period of ten days why execution should not issue against it, its lands, goods and chattels, according to said stipulation, to satisfy this decree. In the event of proceedings hereunder being stayed by appeal the obligation of said surety under said stipulation shall be suspended, to satisfy such decree as shall or may be finally made herein upon mandate on appeal. And upon payment of the said sum of Four Thousand Dollars (\$4,000), (or as may be directed by any final

decree upon mandate in case of an appeal), the said surety shall stand released from further liability on account of the said stipulation.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the said sum of Four Thousand (\$4,000) so awarded as salvage herein, be and the same is hereby apportioned three-fourths (or the sum [3422] of Three Thousand Dollars) to the said Matson Navigation Company as its share of said salvage award, and one-fourth (or the sum of One Thousand Dollars) to the officers and crew of the said tug "Intrepid"; the said last-mentioned sum of One Thousand Dollars (\$1,000) to be deposited in the registry of this Court pending further order and to be further apportioned and distributed between all the officers and members of the crew of said tug "Intrepid" whose names appear on the pay-roll of the said Matson Navigation Company, *pro rata* according to the amounts shown as actually earned or due them respectively in salaries or wages during the said salvage operations from and including December 6th, 1909, to and including the time of the floating of the said British Ship "Celtic Chief" at or about the hour of twelve-twenty (12:20) o'clock A. M. on December 9th, 1909; and, for the purpose of such apportionment of said sum of One Thousand Dollars (\$1,000), it is hereby further ORDERED, that said Matson Navigation Company file in this Court within sixty (60) days from the date of this decree a sworn statement showing the names of the several officers and members of the crew of said tug "Intrepid" participating in said salvage operations and the rates of salaries or wages then being paid to each, and the

amounts earned and due them respectively during the said salvage operations (including overtime); the said apportionment then to be consummated under further order of this Court.

It is hereby further ORDERED, ADJUDGED AND DECREED, that the said libellant Matson Navigation Company pay on account of costs in the said consolidated causes twenty-seventieths (20/70ths) of the taxable costs, the same to be taxed by the clerk.

Dated, Honolulu, Territory of Hawaii, June 17th, 1913.

(Sgd.) CHAS. E. CLEMONS,  
Judge of the United States District Court in and for  
the District and Territory of Hawaii. [3423]

[Endorsed]: No. 117. Final Decree in Favor of  
Matson Navigation Company. Filed Jun. 17, 1913.  
[3424]

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[Title of Court and Cause—Nos. 115, 116, 117.]

**Exception and Notice of Appeal—No. 116. [3425]**

Now comes the claimant in the above-entitled causes in admiralty, being numbered respectively 115, 116, and 117, and excepts to the decision filed herein on the 17th day of June, 1913, and to the several decrees in favor of the libelants in said causes made and rendered this 17th day of June, 1913, and gives notice of appeal from said decision and decrees to the Circuit Court of Appeals for the Ninth Circuit.

Dated, this 17th day of June, A. D. 1913.

(Sgd.) HOLMES, STANLEY & OLSON,  
Proctors for Claimant.

The above exceptions are hereby allowed.

Dated, this 17th day of June, 1913.

(Sgd.) CHAS. F. CLEMONS,  
Judge, United States District Court, Territory of  
Hawaii.

[Endorsed]: No. 116. Exception and Notice of  
Appeal. Filed Jun. 17, 1913. [3426]

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[Title of Court and Cause—Nos. 115, 116, 117.]

**Decree for Miller Salvage Company, Limited—No.  
116. [3429]**

It appearing that heretofore the several causes in admiralty above severally entitled, and being causes numbers 115, 116, and 117 of causes in admiralty in this Court, were by order of this Court consolidated for trial; and said consolidated causes having come on regularly to be heard before this Court upon the pleadings and the evidence adduced by the respective parties, and the proctors for the parties having been heard thereon; and the said causes having been submitted to this Court for determination;

And the Court having duly considered the same and having on the 17th day of June, 1913, rendered and filed its decision in said consolidated causes; and the Court having determined that the services rendered to the above-named respondent *The British Ship "Celtic Chief,"* her tackle, apparel, machinery, boats, furniture, appurtenances, cargo and freight money, by the said libellant *Miller Salvage Company, Lim-*

ited, and servants thereof, were salvage services, entitled to compensation as in said decision and this decree provided;

NOW, upon motion of P. L. Weaver, Esq., proctor for said libelant Miller Salvage Company, Limited, it is ORDERED, ADJUDGED AND DECREED, that the said libelant, Miller Salvage Company, Limited, do have and recover from the said respondent The British Ship "Celtic Chief," and that said respondent The British Ship "Celtic Chief," do pay unto the said libelant Miller Salvage Company, Limited, the sum of Seven Thousand One Hundred (\$7,100.00) Dollars, in lawful money of the United States, with interest thereon, date hereof until paid at the rate of six per cent per annum [3430] for its own use and in trust for its men as hereinafter provided, for the salvage services rendered by the said Miller Salvage Company, Limited, and servants of said libelant, to be apportioned between said company and the foremen and men as hereinafter more particularly provided; and also the said libelant Miller Salvage Company, Limited, have and recover from said respondent, and that said respondent pay to said libelant Miller Salvage Company, Limited, the further sum of One Thousand Four Hundred (\$1,400.00) Dollars as and for the amount of its actual damages incurred during the said salvage operations.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the said sum of Seven Thousand One Hundred (\$7,100.00) Dollars, so awarded as salvage herein, be and the same is hereby apportioned Five Thousand Six Hundred (\$5,600.00).



Dollars to the said Miller Salvage Company, Limited, as its share of said salvage award, and One Thousand Five Hundred (\$1,500.00) Dollars to the foremen and men of the said company and other servants of said owner; the latter to be deposited in the registry of this Court pending further order; the said last-mentioned sum of One Thousand Five Hundred (\$1,500.00) Dollars to be and being hereby further apportioned among the foremen and men *pro rata* according to their salaries or wages and the number of hours of their service, with the exception of Captain Miller who shall take nothing for his services; that is to say, the said sum of One Thousand Five Hundred (\$1,500.00) Dollars shall be distributed among all the foremen, bosses and men and other servants of the Miller Salvage Company, Limited, who shall appear to have been employed by said Miller Salvage [3431] Company, Limited, *pro rata* according to the amounts shown to be paid or due them respectively in salaries or wages during the said salvage operations from and including December 6, 1909, to and including the time of the floating of The British Ship "Celtic Chief" at or about the hour of twelve-twenty (12:20) o'clock A. M., on December 10, 1909, and for the purpose of such apportionment it is hereby further ordered that said Miller Salvage Company, Limited, file in this court within sixty (60) days from the date of this decree a sworn statement showing the name of the several foremen, bosses and men and other servants of the said company, participating in the said salvage operations and the rate of salaries or wages then being paid them, and the amounts earned and due them respectively during the

said salvage operations (including overtime); the said apportionment to be consummated under the further order of this Court.

And it further appearing to this Court that the said British Ship "Celtic Chief" and her tackle, apparel, machinery, boats, furniture, appurtenances, cargo and freight money, have been released to the above-named John Henry, Master and Claimant in this cause (No. 116), upon a stipulation in the sum of Thirty-six Thousand Dollars (\$36,000.00), with the United States Fidelity & Guaranty Company, a corporation of Maryland, as surety: It is hereby further ORDERED, ADJUDGED AND DECREED, that unless this decree be satisfied or proceedings thereon stayed by appeal within ten days after notice of this decree given by the libelant Miller Salvage Company, Limited, by its proctor, P. L. Weaver, Esq., to [3432] Messrs. Holmes, Stanley & Olson, proctors for said respondent The British Ship "Celtic Chief" and said claimant, that the said surety, United States Fidelity & Guaranty Company, pay to the said libelant Miller Salvage Company, Limited, the said sum of Seven Thousand One Hundred (\$7,100.00) Dollars and said further sum of One Thousand Four Hundred (\$1,400.00) Dollars, hereinabove awarded as aforesaid, or show cause within five (5) days after the expiration of said period of ten (10) days, why execution should not issue against it, its lands, goods and chattels, according to said stipulation, to satisfy this decree. In the event of proceedings hereunder being stayed by appeal, the obligation of said surety under said stipulation shall be suspended to satisfy such decree as shall or may

be made herein under mandate as required. And upon payment of the said sum of Seven Thousand One Hundred (\$7,100.00) Dollars and said sum of One Thousand Four Hundred (\$1,400.00) Dollars (or as may be directed by any final decree upon mandate in case of an appeal) the said surety shall stand released from further liability on account of the said stipulation.

It is hereby further ORDERED, ADJUDGED AND DECREED, that the said libellant Miller Salvage Company, Limited, pay on account of costs in the said consolidated causes its proportion of the costs hereafter to be taxed by the clerk, the sum of two-sevenths (2/7) of the costs.

[Endorsed]: No. 116. Notice of Filing of Final Decree in Favor of Miller Salvage Co., Ltd. Filed Jun. 20, 1913. [3433]

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[Title of Court and Cause—Nos. 115, 116, 117.]

**Notice of Appeal—No. 115.**

To Messrs. Matson Navigation Company, a California Corporation, Libellant, in the Above-entitled Cause, and to Messrs. Smith, Warren & Hemenway, Its Proctors:

You and each of you are hereby notified that the British Ship "Celtic Chief," libellee, and John Henry, master and claimant, respondents in the above-entitled [3434] cause, intend to and hereby do appeal to the United States Circuit Court of Appeals for the Ninth Circuit from the final order and decree of the District Court of the United States in and for the Territory of Hawaii, made and entered in the above-entitled cause on the 17th day of June,

1913, and you are hereby further notified that said respondents intend to introduce new proofs in said appeal.

Honolulu, T. H., June 26th, 1913.

HOLMES, STANLEY & OLSON,  
Proctors for the British Ship "Celtic Chief," and  
John Henry, Respondents.

Received a copy this 26th day of June, 1913.

(Sgd.) SMITH, WARREN, HEMENWAY  
& SUTTON,  
Proctors for Matson Navigation Company, Limited.

[Endorsed]: No. 115. Notice of Appeal. Filed  
Jun. 26, 1913. [3435]

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[Title of Court and Cause—Nos. 115, 116, 117.]

**Notice of Appeal—No. 116.**

To Messrs. Miller Salvage Company, an Hawaiian  
Corporation, Libellant in the Above-entitled  
Cause, and to Messrs. J. A. Magoon and P. L.  
Weaver, Its Proctors:

YOU and each of you are hereby notified that the  
British Ship "Celtic Chief," libellee, and JOHN  
HENRY, master and claimant, respondents in the  
above-entitled cause, [3436] intend to and hereby  
do appeal to the United States Circuit Court of Ap-  
peals for the Ninth Circuit from the final order and  
decree of the District Court of the United States in  
and for the Territory of Hawaii, made and entered  
in the above-entitled cause on the 17th day of June,  
1913, and you are hereby further notified that said



respondents intend to introduce new proofs in said appeal.

Honolulu, T. H., June 26th, 1913.

HOLMES, STANLEY & OLSON,  
Proctors for the British Ship "Celtic Chief," and  
John Henry, Respondents.

Received a copy this 26th day of June, 1913.

(Sgd.) P. L. WEAVER,  
Proctors for the Miller Salvage Company, Limited,  
Libellant.

[Endorsed]: No. 116. Notice of Appeal. Filed  
Jun. 26, 1913. [3437]

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[Title of Court and Cause—Nos. 115, 116, 117.]

**Notice of Appeal—No. 117.**

To Messrs. Matson Navigation Company, a California Corporation, Libellant, in the Above-entitled Cause, and to Messrs. Smith, Warren & Hemenway, Its Proctors:

YOU and each of you are hereby notified that the British Ship "Celtic Chief," libellee, and John Henry, master and claimant, respondents in the above-entitled [3438] cause, intend to and hereby do appeal to the United States Circuit Court of Appeals for the Ninth Circuit from the final order and decree of the District Court of the United States in and for the Territory of Hawaii, made and entered in the above-entitled cause on the 17th day of June, 1913, and you are hereby further notified that said



respondents intend to introduce new proofs in said appeal.

Honolulu, T. H., June 26th, 1913.

HOLMES, STANLEY & OLSON,  
Proctors for the British Ship "Celtic Chief," and  
John Henry, Respondents.

Received a copy this 26th day of June, 1913.

(Sgd.) SMITH, WARREN, HEMENWAY  
& SUTTON,  
Proctors for Matson Navigation Company, Limited.

[Endorsed]: No. 117. Notice of Appeal. Filed  
Jun. 26, 1913. [3439]

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[Title of Court and Cause—Nos. 115, 116, 117.]

**Amendment to Final Decree in Favor of Matson  
Navigation Co.—No. 117.**

Pursuant to the stipulation of the parties to the above-entitled cause #117, filed herein this date, providing for the amendment of the Final Decree heretofore entered in said cause #117, on the 17th day of June, 1913, and to conform with the decision of the Court herein in the particulars specified in said stipulation and hereinbelow set forth:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the said Final Decree in said above-entitled cause #117, dated the 17th day of June, 1913, be and the same is hereby amended as follows:

First: That the paragraph or portion of said Decree included in the last three lines on page three and including the remainder of said paragraph on

page four thereof be amended by inserting in the fourteenth line on page four of said Decree, after the words "December 9th, 1909," the following:

"There being first deducted, however, an award of \$175, in place of any *pro rata* aforesaid, to Captain John W. McAllister; that is to say, that out of said sum of \$1000 there be paid \$175 to said Captain McAllister and the balance of \$825 apportioned *pro rata* among the remaining officers and members of the crew of said tug 'Intrepid' as hereinabove provided."

Second: That the words and figures "Twenty-seventieths (20/70ths)" in the last paragraph of said Decree be stricken therefrom and the words "Fifteen-seventieths (15/70ths)" be inserted in lieu thereof.

Done this 25th day of October, 1913.

(Sgd.) CHAS. F. CLEMONS,

Judge of the United States District Court, District and Territory of Hawaii, in and for the District and Territory of Hawaii.

O. K.—(Sgd.) H. S. & O. [3455]

[Endorsed]: No. 117. Amendment to Final Decree in Favor of Matson Navigation Company. Filed Oct. 20, 1913. [3456]

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[Title of Court and Cause—No. 115.]

**Assignment of Errors—No. 115.**

Now comes the British Ship "Celtic Chief," libelee, and John Henry, master and claimant, appellants in the above-entitled cause, and say that in the

record, opinion, decision, decree and proceedings in the above-entitled matter in the above-entitled court there is manifest and material error, and said appellants now make, file and present the following assignment of errors upon which they rely, to wit:

1.

That the award of \$19,546.77 (\$17,500 for salvage and \$2,046.77 for expenses) in favor of libellant was and is not warranted by the evidence and was and is excessive and erroneous.

2.

That the Court erred in holding and deciding that the ship "Celtic Chief" was in great danger of total destruction and that libellant took any appreciable part in saving her from such danger.

3.

That the Court erred in holding and deciding that [3463] libellant's vessels and employees ran any material risk while engaged in the salvage service, or any risk at all greatly out of the ordinary.

4.

That the Court erred in holding and deciding that the services of libellant in the rescue of said ship "Celtic Chief" were substantial and indispensable, and in not holding that said services were of minor importance and by no means indispensable.

5.

That the Court erred in holding and deciding that the services of libellant assisted in any material degree in preventing said ship "Celtic Chief" from going broadside on the reef on which she was stranded, or in securing her or rendering her more

3400 *The British Ship "Celtic Chief" et al. vs.*  
secure and safe in her position on said reef.

6.

That the Court erred in awarding to the libellant for its services in lightering part of the cargo of the said ship "Celtic Chief" any sum in excess of the fair value thereof on a *pro opere et labore* basis, and that the Court erred in rewarding said services as meritorious salvage services and in making a grossly excessive salvage award for mere lighterage services, and in holding that the men and small boats engaged in said lightering operations were in any material or extraordinary danger.

7.

That the Court erred in failing to find gross negligence and lack of skill on the part of the libellant and of [3464] its agents in lightering from the "Celtic Chief" before anchors had been put out to prevent her drifting farther aground and in failing to diminish libellant's award accordingly.

8.

That the Court erred in holding and deciding that the value of all the salvage services to said ship "Celtic Chief" was the sum of \$30,000, in that said value is not warranted by the evidence and was and is excessive and erroneous, and also erred in basing its award to libellant in part on said excessive value.

9.

That the Court erred in attributing to libellant's vessels and appliances and to the ship "Celtic Chief" values not warranted by the evidence.

10.

That the Court erred in holding and deciding that

the services of the German cruiser "Arcona" were entitled to an award of only \$500 out of said total salvage of \$30,000, and in not holding and deciding that said "Arcona" rendered efficient and valuable services worth far more than \$500 and in not diminishing the awards made to the other salvors in consequence thereof.

11.

That the Court erred in holding and deciding that the "Celtic Chief" would have come free without the services of the "Arcona."

12.

That the Court erred in attributing undue importance [3465] to the value of libellant's steamers engaged in the salvage operations in that said steamers were at no risk whatever during said salvage operations.

13.

That the Court erred in considering at all or to any appreciable extent the value of libellant's steamer "Mauna Kea" and the number of her officers and crew, in that said steamer accomplished nothing in the salvage of the "Celtic Chief" and abandoned said "Celtic Chief" at an early stage of the salvage operations when said "Celtic Chief" was in a far worse position than she was upon the arrival of said "Mauna Kea."

14.

That the Court erred in giving undue credit to libellant's steamer "Helene" and her anchors and appliances for the secure position occupied by the ship "Celtic Chief" on the reef on which she was stranded.



15.

That the Court erred in awarding interest to libellant from the time of the completion of its salvage services.

16.

That the Court erred in making, rendering and entering a final decree in said cause in favor of libellant and in not making, rendering and entering a final decree in favor of the claimant.

In order that the foregoing assignment of errors may be and appear of record, said appellants herein file and present the same to said Court, and pray such [3466] disposition to be made thereof as is in accordance with law and the Statutes of the United States in such case made and provided, and said appellants pray the reversal of the above-mentioned decree, and that such judgment be entered as ought to have been rendered by the District Court of the United States for the Territory of Hawaii.

Dated Honolulu, T. H., April 24th, 1914.

THE BRITISH SHIP "CELTIC  
CHIEF," and JOHN HENRY, Master,  
Appellants.

By (Sgd.) HOLMES, STANLEY & OLSON,  
Their Attorneys and Proctors.

Due service of a copy of the within assignment of errors this day is admitted.

Dated Honolulu, T. H., April 24th, 1914.

(Sgd.) J. A. MAGOON,

(Sgd.) P. L. WEAVER,

Proctors for Libellant.

[Endorsed]: No. 115. Assignment of Errors.  
Filed Apr. 25, 1914. [3467]

[Title of Court and Cause—No. 116.]

**Assignment of Errors—No. 116.**

Now comes the British Ship “Celtic Chief,” libellee, and John Henry, master and claimant, appellants in the above-entitled cause, and say that in the record, opinion, decision, decree and proceedings in the above-entitled matter in the above-entitled court, there is manifest and material error, and said appellants now make, file and present the following assignment of errors upon which they rely, to wit:

1.

That the award of \$8,500 (\$7,100 for salvage and \$1,400 for expenses) in favor of the libellant was and is not warranted by the evidence and was and is excessive and erroneous.

2.

That the Court erred in holding and deciding that the ship “Celtic Chief” was in great danger of total destruction and that libellant took any appreciable part in saving her from such danger.

3.

That the Court erred in holding and deciding that libellant’s vessels and employees ran any material risk [3468] while engaged in the salvage service or any risk at all, greatly out of the ordinary.

4.

That the Court erred in holding and deciding that the services of libellant in the rescue of said ship “Celtic Chief” were substantial and indispensable, and in not holding that said services were of minor importance and by no means indispensable.

5.

That the Court erred in holding and deciding that the services of libellant assisted in any material degree in preventing said ship "Celtic Chief" from going broadside on the reef on which she was stranded, or in securing her or rendering her more secure and safe in her position on said reef.

6.

That the Court erred in awarding to the libellant for its services in lightering part of the cargo of the said ship "Celtic Chief" any sum in excess of the fair value thereof on a *pro opere et labore* basis, and that the Court erred in awarding said services as meritorious salvage services and in making a grossly excessive salvage award for mere lighterage services.

7.

That the Court erred in failing to find gross negligence and lack of skill on the part of the libellant and of its superintendent, Captain Miller, in lightering from the "Celtic Chief" before anchors had been put out to prevent her drifting farther aground and in failing to diminish [3469] libellant's award accordingly.

8.

That the Court erred in holding and deciding that the value of all the salvage services to said ship "Celtic Chief" was the sum of \$30,000, in that said value is not warranted by the evidence and was and is excessive and erroneous, and also erred in basing its award to libellant in part on said excessive value.

9.

That the Court erred in attributing to libellant's

vessels and appliances and to the ship "Celtic Chief" values not warranted by the evidence.

10.

That the Court erred in holding and deciding that the services of the German cruiser "Arcona" were entitled to an award of only \$500 out of said total salvage of \$30,000, and in not holding and deciding that said "Arcona" rendered efficient and valuable services worth far more than \$500, and in not diminishing the awards made to the other salvors in consequence thereof.

11.

That the Court erred in holding and deciding that the "Celtic Chief" would have come free without the services of the "Arcona."

12.

That the Court erred in not entirely forfeiting any award to which libellant would have been otherwise entitled by reason of the misconduct of libellant and its superintendent, Captain F. C. Miller.

13.

That the Court erred in not forfeiting or greatly reducing the award made to libellant in that its superintendent, [3470] and principal stockholder, Captain F. C. Miller, did, at a time when he knew that the ship "Celtic Chief" was coming off or soon to come off the reef, deliberately and wilfully and actively conceal said fact from the officers of said "Celtic Chief" and the other salvors, and also in that said Captain Miller both hoped and intended to have said "Celtic Chief" bump the German cruiser "Arcona" when she came off the reef in order to thereby en-

hance libellant's claim to a salvage award and minimize the services of said "Arcona," and also in that said Captain Miller gave wilfully false testimony in this cause as to the value of libellant's vessels as well as to other material facts in the case.

14.

That the Court erred in insufficiently penalizing said libellant and said Captain Miller for the same reasons.

15.

That the Court erred in failing to sufficiently consider in its award the selfish and calculating spirit and unfairness toward the claimant with which libellant's salvage service was carried on.

16.

That the Court erred in awarding interest to libellant from the time of the completion of its salvage services.

17.

That the Court erred in making, rendering and entering a final decree in said cause in favor of libellant and in not making, rendering and entering a final decree in [3471] favor of the claimant.

In order that the foregoing assignment of errors may be and appear of record, said appellants herein file and present the same to said court, and pray such disposition to be made thereof as is in accordance with law and the statutes of the United States in such case made and provided, and said appellants pray the reversal of the above-mentioned decree, and that such judgment be entered as ought to have been rendered by the District Court of the United States



for the Territory of Hawaii.

Dated, Honolulu, T. H., April 24th, 1914.

THE BRITISH SHIP "CELTIC  
CHIEF," and JOHN HENRY, Master,  
Appellants.

By HOLMES, STANLEY & OLSON,  
Their Attorneys and Proctors.

Due service of a copy of the within assignment of errors this day is admitted.

Dated Honolulu, T. H., April 24th, 1914.

(Sgd.) J. A. MAGOON,

(Sgd.) P. L. WEAVER,

Proctors for Libellant.

[Endorsed]: No. 116. Assignment of Errors.  
Filed Apr. 25, 1914. [3472]

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[Title of Court and Cause—No. 117.]

**Assignment of Errors—No. 117.**

Now comes the British Ship "Celtic Chief," libellee, and John Henry, master and claimant, appellants in the above-entitled cause, and say that in the record, opinion, decision, decree and proceedings in the above-entitled matter in the above-entitled court, there is manifest and material error, and said appellants now make, file and present the following assignment of errors upon which they rely, to wit:

1.

That the award of \$4,000 in favor of libellant was and is not warranted by the evidence and was and is excessive and erroneous.

2.

That the Court erred in holding and deciding that

the ship "Celtic Chief" was in great danger of total destruction and that libellant took any appreciable part in saving her from such danger. [3473]

3.

That the Court erred in holding and deciding that the services of libellant in the rescue of said ship "Celtic Chief" were substantial and indispensable, and in not holding that said services were of minor importance and by no means indispensable.

4.

That the Court erred in holding and deciding that the services of libellant assisted in any material degree in preventing said ship "Celtic Chief" from going broadside on the reef on which she was stranded, or in securing her or rendering her more secure and safe in her position on said reef.

5.

That the Court erred in holding and deciding that the value of all the salvage services to said ship "Celtic Chief" was the sum of \$30,000, in that said value is not warranted by the evidence and was and is excessive and erroneous, and also erred in basing its award to libellant in part on said excessive value.

6.

That the Court erred in attributing to the ship "Celtic Chief" a value not warranted by the evidence.

7.

That the Court erred in holding and deciding that the services of the German cruiser "Arcona" were entitled to an award of only \$500 out of said total salvage of \$30,000, and in not holding and deciding that said "Arcona" rendered efficient and valuable

services worth [3474] far more than \$500, and in not diminishing the awards made to the other salvors in consequence thereof.

8.

That the Court erred in holding and deciding that the "Celtic Chief" would have come free without the services of the "Arcona."

9.

That the Court erred in attributing undue importance to the value of libellant's vessel "Intrepid," in that said vessel was at no risk whatever during the salvage operations.

10.

That the Court erred in not entirely forfeiting any award to which libellant would have been otherwise entitled by reason of the misconduct of libellant's vessel "Intrepid," her master, officers and crew.

11.

That the Court erred in not forfeiting or greatly reducing the award made to libellant in that the master of libellant's vessel "Intrepid," although repeatedly asked to make way for the German cruiser "Arcona," known to him to be much larger and more powerful than said "Intrepid" and of far greater value to the "Celtic Chief," declined to so make way and give up his place to said "Arcona," and this despite the fact that his position was the best one for the "Arcona" to occupy and that he was promised another position in the salvage operations if he would do so, and also in that he together with his crew [3475] actively resisted the cutting of the line of said "Intrepid" by those on board said "Celtic Chief."

12.

That the Court erred in declining to penalize libellant or said "Intrepid" on account of the aforesaid facts.

13.

That the Court erred in not holding or deciding that the said "Intrepid" was discharged for good cause and its services were thereby terminated before the salvage of the said "Celtic Chief" and therefore libellant was not entitled to any award or compensation.

14.

That the Court erred in awarding interest to libellant from the time of the completion of its salvage services.

15.

That the Court erred in making, rendering and entering a final decree in said cause in favor of libellant and in not making, rendering and entering a final decree in favor of the claimant.

In order that the foregoing assignment of errors may be and appear of record, said appellants herein file and present the same to said court, and pray such disposition to be made thereof, as is in accordance with law and the statutes of the United States in such case made and provided, and said appellants pray the reversal of the above-mentioned decree, and that such judgment be entered as ought to have been rendered by the District [3476] Court of the United States for the Territory of Hawaii.

Dated Honolulu, T. H., April 24th, 1914.

THE BRITISH SHIP "CELTIC CHIEF,"

and JOHN HENRY, Master,

Appellants.

By HOLMES, STANLEY & OLSON,

Their Attorneys and Proctors.

Due service of a copy of the within assignment of errors this day is admitted.

Dated Honolulu, T. H., April 24th, 1914.

(Sgd.) J. A. MAGOON,

(Sgd.) P. L. WEAVER,

Proctors for Libellant.

[Endorsed]: No. 117. Assignment of Errors.  
Filed Apr. 25, 1914. [3477]

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[Title of Court and Cause—Nos. 115, 116, 117.]

**Order to Withdraw Exhibits from the Files—Nos.  
115, 116, 117. [3490]**

It is hereby ordered that the Clerk of this Court be permitted to withdraw from the files of this court for the purpose of sending to the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, the following exhibits introduced in evidence in the above-entitled cause, the said above-entitled cause having been taken on appeal to the United States Circuit Court of Appeals for the Ninth Circuit, viz.:

Libellee's Exhibit #1 (Loncke) (Drawing), Libellee's Exhibit #2 (Loncke) (Drawing), Libellant's Exhibit "A" (Lloyd's Register), Libellant's Exhibit "A" (I. I. S. N. Co. & Mat. Nav. Co.)



(Drawing), Libellee's Exhibit #3 ("Celtic Chief") (Drawing), Libellant's Exhibit "B" (Miller Salvage Co.) (Drawing), Libellant's Exhibit "C" (I. I. S. N. & Co. & M. N. Co.) (Drawing), Libellant's Exhibit "D" (Miller Salvage) (Time-book), Libellee's Exhibit #5 (Capt. Piltz Diagram), Libellee's Exhibit #6 (J. M. Dowsett Diagram), Libellant's Exhibit "F" (Capt. Macaulay's Test), (I. I. S. N. Co.) (Drawing), Libellant's Exhibit "G" (Capt. J. R. Macaulay's Test), I. I. S. N. Co. & M. N. Co. (Drawing), Libellant's Exhibit "H" (Captain Tullett's Testimony) (Drawing), Libellant's "I" (Captain Tullett's Testimony) (Photograph), Libellant's Exhibit "J" (Captain Tullett's Testimony) (Photograph), Libellant's Exhibit "K" (Captain Tullett's Testimony) (Photograph), Libellant's Exhibit "L" (Captain Tullett's Testimony) (Photograph), Libellant's Exhibit "M" (Faneuf) (Engineer's Report), Libellant's Exhibit "N" (Capt. Haglund) (Light Signals), Libellant's Exhibit "O" (Captain Haglund) (Hemp Hawser), Libellee's Exhibit "B" (Captain Henry) (Steel Hawser), Libellant's Exhibit "P" (Captain Haglund) (Hemp Hawser), Libellee's Exhibit #8 (Capt. Haglund's Testimony) (Drawing), Libellant's Exhibit "Q" (In Deposition of Capt. Henry) (Drawing), Libellant's Exhibit "R" (Contract), Libellee's "S" (Comparison Sheet).

Dated at Honolulu this 18th day of May, 1914.

CHAS. F. CLEMONS,  
U. S. District Judge. [3491]

[Title of Court and Cause—Nos. 115, 116, 117.]

**Clerk's Certificate to Apostles on Appeal—Nos.  
115, 116, 117.**

I, A. E. Murphy, Clerk of the United States District Court for the District and Territory of Hawaii, do hereby certify that the foregoing pages numbered from 1 to 3,499, inclusive, contained in Volumes 1, 2, 3, 4, 5, 6, and 7, as well as Volume 8 (the latter consisting of Exhibits), is a true and complete transcript of the record and proceedings had in said court in the cases of Inter-Island Steam Navigation Company, Limited, an Hawaiian Corporation, Owner of the Steamers "Helene," "Mikahala," "Likelike," and "Mauna Kea," for Itself, the Officers and Crews of Said Steamers, and Other Servants of Said Owners, Libellant, vs. The British Ship "Celtic Chief," Her Tackle, Apparel, Machinery, Boats, Furniture, Appurtenances, Cargo and Freight Money, Libellee, and John Henry, Master, Claimant; and Miller Salvage Company, Limited, a Corporation, Libellant, vs. British Ship "Celtic Chief," Her Tackle, Apparel, Furniture, Machinery, Boats, Appurtenances, Cargo and Freight Money, Libellee, and John Henry, Master, Claimant; and Matson Navigation Company, a California [3498] Corporation, Owner of the Tug "Intrepid," for Itself, and the Officers and Crew of Said Tug, Libellant, vs. The British Ship "Celtic Chief," Her Tackle, Apparel, Machinery, Boats, Furniture, Appurtenances, Cargo and Freight Money, Libellee, and John Henry, Master, Claimant, as the same remains of record and on file in my office, and I further certify that I hereto annex the orig-

inal citation on appeal in said cause.

I further certify that the cost of the foregoing transcript of record is \$815.35, and that said amount was paid by appellant.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of this court this 18th day of May, A. D. 1914.

[Seal] A. E. MURPHY,  
Clerk, United States District Court, Territory of  
Hawaii. [3499]

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[Endorsed]: No. 2426. United States Circuit Court of Appeals for the Ninth Circuit. The British Ship "Celtic Chief," Her Tackle, etc., and John Henry, Master and Claimant Thereof, Appellants, vs. Inter-Island Steam Navigation Company, Limited, an Hawaiian Corporation, Owner of the Steamers "Helene," "Mikahala," "Likelike," and "Mauna Kea," for Itself, the Officers and Crews of Said Steamers and Other Servants of Said Owners, Appellee, The British Ship "Celtic Chief," Her Tackle, etc., and John Henry, Master and Claimant Thereof, Appellants, vs. Miller Salvage Company, Limited, a Corporation, Appellee, and The British Ship "Celtic Chief," Her Tackle, etc., and John Henry, Master and Claimant Thereof, Appellants, vs. Matson Navigation Company, a California Corporation, Owner of the Tug "Intrepid," for Itself and the Officers and Crew of Said Tug, Appellee.

Apostles. Upon Appeal from the United States District Court for the Territory of Hawaii.

Received and filed May 27, 1914.

F. D. MONCKTON,

Clerk of the United States Circuit Court of Appeals  
for the Ninth Circuit.

By Meredith Sawyer,  
Deputy Clerk.

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[Title of Court and Cause—Nos. 115, 116, 117.]

**Supplemental Statement Under Admiralty Rule  
No. 4—Nos. 115, 116, 117.**

Notice of Appeal was filed by The British Ship  
“CELTIC CHIEF,” Libellee, and JOHN HENRY,  
Master and Claimant, Respondents, in Cause No.  
115 on the 26th day of June, 1913.

**Clerk's Certificate.**

United States of America,  
Territory of Hawaii,—ss.

I, A. E. Murphy, Clerk of United States District  
Court, Territory of Hawaii, do hereby certify the  
foregoing to be a true and correct statement show-  
ing the date when the Notice of Appeal was filed in  
Cause #115 in the above-entitled causes in the  
United States District Court for the Territory of  
Hawaii.

And further that the foregoing statement and this  
certificate is supplemental and additional to my  
certificate and statement to and made a part of the  
Apostles on Appeal from the United States District  
Court for the Territory of Hawaii to the United  
States Circuit Court of Appeals for the Ninth Cir-

cuit, in the above-entitled causes, and made for the purpose of correcting the said Apostles on Appeal and my said certificate and statement.

IN WITNESS WHEREOF I HAVE HERETO SET MY HAND AND AFFIX THE SEAL OF SAID UNITED STATES DISTRICT COURT THIS 28th DAY OF MAY, 1914.

[Seal]

A. E. MURPHY,  
Clerk U. S. District Court, Territory of Hawaii.

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[Title of Court and Cause—Nos. 115, 116, 117.]

**Notice of Appeal—Nos. 115, 116, 117.**

To Messrs. Inter-Island Steam Navigation Co., Ltd;  
an Hawaiian Corporation, Libellant in the  
Above-entitled Cause, and to Messrs. Smith,  
Warren & Hemenway, Its Proctors:

YOU and each of you are hereby notified that the British Ship "Celtic Chief," Libellee, and JOHN HENRY, Master and Claimant, Respondents in the above-entitled cause, intend to and hereby do appeal to the United States Circuit Court of Appeals for the Ninth Circuit from the final order and decree of the District Court of the United States in and for the Territory of Hawaii, made and entered in the above-entitled cause on the 17th day of June, 1913, and you are hereby further notified that said respondents intend to introduce new proofs in said appeal.

Honolulu, T. H., June 26, 1913.

(Sgd.) HOLMES, STANLEY & OLSON,  
Proctors for the British Ship "Celtic Chief," and  
John Henry, Respondents.



Received a copy this 26th day of June, 1913.

(Sgd.) SMITH, WARREN, HEMEN-  
WAY & SUTTON,

Proctors for Inter-Island Steam Navigation Co.,  
Ltd., Libellant.

[Endorsed]: No. 115. Notice of Appeal. Filed  
Jun. 26, 1913.

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[Title of Court and Cause—Nos. 115, 116, 117.]

**Order for Correction of Apostles on Appeal and  
Extending Time to Transmit Record on Appeal  
—Nos. 115, 116, 117.**

It appearing from the representations of the Clerk of this court that in the Apostles on Appeal in the above-entitled causes in this court to the United States Circuit Court of Appeals for the Ninth Circuit, the Notice of Appeal of the above-named libellee and master and claimant from this court to the said United States Circuit Court of Appeals from the Decree of this court made and entered in the above-entitled causes in favor of the above-named Inter-Island Steam Navigation Co., Ltd., Libellant, on the 17th day of June, 1913, is incorrectly set forth, and that the time within which to prepare and transmit a true record of said Notice of Appeal in order to correct said Apostles of Appeal with respect thereto, is insufficient:

IT IS HEREBY ORDERED that the Clerk of this court do prepare a supplemental record correcting the said Apostles of Appeal with respect to said Notice of Appeal and containing a true copy and record of this order and transmit the same to the

Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, and that the time within which to transmit the record on appeal in said causes to said Clerk of said Circuit Court of Appeals, be, and the same is hereby extended, to and including the 15th day of June, 1914.

Dated Honolulu, T. H., May 28th, 1914.

(Sgd.) CHAS. F. CLEMONS,  
Judge, United States District Court, Territory of  
Hawaii.

[Endorsed]: Nos. 115-16-17. Order for Correction of Apostles on Appeal and Extending Time to Transmit Record on Appeal. Filed May 28th, 1914.

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**[Certificate of Clerk U. S. District Court to Notice  
of Appeal, etc.—Nos. 115, 116, 117.]**

*In the United States District Court for the Territory  
of Hawaii.*

United States of America,  
Territory of Hawaii,—ss.

I, A. E. Murphy, Clerk of the United States District Court, for the Territory of Hawaii, do hereby certify that the foregoing is a full, true and complete copy of the Notice of Appeal of The British Ship "Celtic Chief," Libellee, and John Henry, Master and Claimant, Respondents and Appellants, in the case of "Inter-Island Steam Navigation Co., Ltd., etc., Libellant, vs. The British Ship 'Celtic Chief,' Libellee, and John Henry, Master and Claimant," in the said United States District Court, and also an order made in said cause directing correction of Apostles on Appeal and extending time to transmit

record on appeal, as the same remain of record and on file in my office.

In witness whereof I have hereunto set my hand and affix the seal of this court, this 28th day of May, 1914.

[Seal]

A. E. MURPHY,  
Clerk U. S. District Court, Territory of Hawaii.

[Endorsed]: No. 2426. Supplement to Apostles.  
Filed Jun. 10, 1914. F. D. Monckton, Clerk.